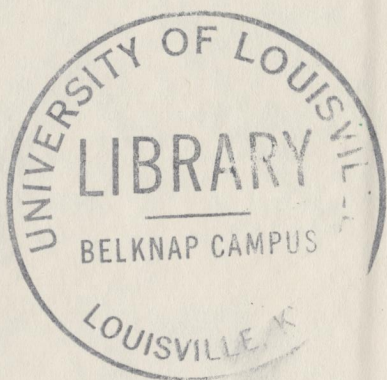


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THE

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Kentucky annotated

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KENTUCKY.

Kentucky. Laws, statutes, etc.

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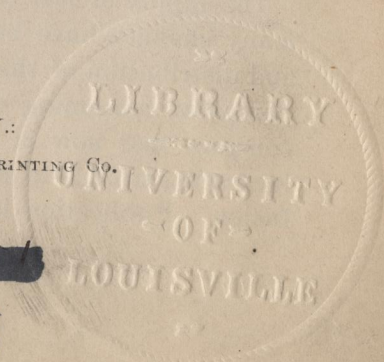
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INTRODUCTORY.

The General Assembly of 1894 amended eighteen sections of the Act of July 6th, 1893, and enacted a law for the establishment and maintenance of public schools in cities of the Second Class, besides making some changes in charters of the cities of the third and fourth classes affecting the public schools.

An act, now included in the Session Laws of 1894 as Chapter 34, was passed under the title of "An act to amend and reenact Sections 1, 5, and 6 of An act, entitled 'An act for the benefit of graded schools,' approved March 18th, 1892." This Act of March 18th, 1892, was not included in the edition of School Laws published in the summer of 1893, from the fact that its provisions had all been incorporated in the general school law of July 6th, 1893. This amendment of the original act makes it necessary to publish it separately, as amended, and it will be found among the "School Laws other than those found in Chapter 260," &c., and numbered II. Wherever necessary in the general law, Sections 100 to 130, inclusive, attention is called to it by marginal note. The amended Sections of the Act of July 6th, 1893, are given, that the reader may readily note whatever changes have been made. They are the following: 33, 37, 46, 57, 58, 59, 63, 69, 78, 79, 80, 83, 89, 132, 133, 137, 149, and 156.

Beginning with sub-head 31, in the Appendix, are found such additional abstracts of the decisions of the State Courts and opinions of the Attorney-General, on common school laws, as are not given in former editions.

The supply of last edition is now so nearly exhausted, and so many changes have been made, as to necessitate the printing and distribution of the entire code, instead of a supplementary pamphlet containing only the new enactments, with which to compare that now in hand. The latter course would involve increasing trouble to school officers, and inevitably lead to confusion. Publication is therefore made, in accordance with the

following provisions, as found in sections 31 and 33, chapter 260, Acts of Assembly 1891-92-93 :

“The Superintendent of Public Instruction shall biennially collect, arrange for publication and index the school laws, omitting all that has been repealed, and inserting in its proper place that which is amendatory. * * * * *

“He shall have published, for annual distribution throughout the State, the general school laws of the State, abstracts of the decisions of the Appellate courts and of the Attorney-General, on points of school law and construction thereof,” etc.

For convenience of reference, and for the promotion of a general knowledge of the organic law upon which the Common School System of Kentucky is based, that part of the Constitution of 1891 relating to education is given in full :

“§ 183. The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State.

“§ 184. The bond of the Commonwealth, issued in favor of the Board of Education for the sum of one million three hundred and twenty-seven thousand dollars, shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the Bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interests and dividends of said fund, together with any sum which may be produced by taxation or otherwise for purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education, other than in common schools, until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation: *Provided*, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law.

“§ 185. The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky ;

and, in case of a sale of all or any part of said stock, the proceeds of sale shall be invested by the Sinking Fund Commissioners in other good interest-bearing stocks or bonds, which shall be subject to sale and reinvestment, from time to time, in like manner, with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky.

“§ 186. Each county in the Commonwealth shall be entitled to its proportion of the school fund on its census of pupil children for each school year; and if the *pro rata* share of any school district be not called for after the second school year, it shall be covered into the Treasury, and be placed to the credit of the school fund for general apportionment the following school year. The surplus now due the several counties shall remain a perpetual obligation against the Commonwealth for the benefit of said respective counties, for which the Commonwealth shall execute its bond, bearing interest at the rate of six per centum per annum, payable annually to the counties respectively entitled to the same, and in the proportion to which they are entitled, to be used exclusively in aid of common schools.

“§ 187. In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

“§ 188. So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund, and be held as provided in section 184; but the General Assembly may authorize the use, by the Commonwealth, of the moneys so received, or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions, and subject to the provisions of section 184, concerning the bond therein referred to.

“§ 189. No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.”

ED PORTER THOMPSON,

Superintendent of Public Instruction.

THE COMMON SCHOOL LAWS

OF THIS COMMONWEALTH.

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I.—GENERAL PROVISIONS.

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| <p>§ 1. A uniform system of common schools throughout the State.</p> <p>2. Common school and its conditions defined.</p> <p>3. School-year, when to begin and terminate.</p> <p>4. Number of school-days to constitute a month; number of hours to constitute a school-day; conditions for employing assistant Teachers.</p> | <p>§ 5. Duty of all pupils; for good cause may be suspended or expelled from school.</p> <p>6. Forbidden publications and doctrines in common schools</p> <p>7. Conditions for graduation in a common school.</p> |
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SECTION 1. [**A Uniform System.**].—*Be it enacted by the General Assembly of the Commonwealth of Kentucky:* There shall be maintained throughout the State of Kentucky a uniform system of common schools in accordance with the Constitution of the State and this chapter.

SEC. 2. [**Common School Defined.**].—No school shall be deemed a “common school,” within the meaning of this chapter, or be entitled to any contribution out of the school fund unless the same has been, pursuant hereto, actually kept, or is under contract to be kept, by a qualified teacher for three months in districts having thirty-five pupils or less, for four months in districts having more than thirty-five or less than forty-five pupils, and for five or more months in districts having forty-five or more pupils, during the same school-year, and at which every child residing in the district, between the ages of six and twenty years, has had the privilege of attending, whether contributing towards defraying its expenses or not: *Provided*, That nothing herein shall prevent any person from attending a common school who will obtain the consent of the trustees and the teachers and pay the required tuition fees. But after June 30, 1894, no school shall be deemed a “common school” or be entitled to any contribution out of the school fund, unless the same has been, pursuant hereto, actually kept, or is under contract to be kept, by a qualified teacher for not less than five months during the same school-year, free of expense to every pupil child, as prescribed above. In order that each child of the Commonwealth may enjoy the benefits of a five months’ school, the Superintendent of Public Instruction shall, for each school-year after June 30, 1893, apportion the fund due each county having one or more districts of less than forty-five pupil children as follows: He shall apportion to each district, without regard to school population, the *per capita* of forty-five pupil children, both from the fund derived from the State and interest on the county bond, if any, and prorate the remainder of the fund among the districts having more than forty-five such children: *Provided*, That any fractional balance shall be omitted in computing the said *per capita*, and that the aggregate of fractional balances shall be credited to the respective counties, and be taken into account the following year.

SEC. 3. [**School-year.**].—The school-year shall begin on the first day of July, and end on the thirtieth of June.

SEC. 4. [**School-month—School-day—Assistant Teachers.**].—Twenty school-days, or days in which teachers are actually employed in the school-room, shall constitute a school-month in the common schools of the State; but no teacher shall teach on Saturdays. Teachers shall have the benefits of only such legal holidays as they actually observe. Six hours of actual work in the school-room shall constitute a school-day; and, under no circumstances, shall the daily session, including recesses and intermissions, exceed nine hours in length. When the attendance exceeds fifty, the teacher may employ, during such attendance, an assistant, whose scholarship and competency shall be acceptable to the trustees. When the school shall require an assistant to serve regularly at a salary, such assistant shall hold a certificate of qualification, and be employed by the trustees.

SEC. 5. [**Regulations for Schools—Penalties.**].—All pupils who may be admitted to common schools shall comply with the regulation established in pursuance of law for the government of such schools. Willful disobedience or defiance of the authority of the teachers, habitual profanity or vulgarity, or other gross violation of propriety or law, shall constitute good cause for suspension or expulsion from school.

SEC. 6. [**Forbidden Publications and Doctrines.**].—No books or other publications of a sectarian, infidel or immoral character, shall be used or distributed in any common school; nor shall any sectarian, infidel or immoral doctrine be taught therein.

SEC. 7. [**Conditions for Graduation.**].—Whenever a pupil of any common school shall have faithfully completed the prescribed course of study, shall have passed a proper examination before the county board of examiners on a series of questions prescribed by the State Board of Examiners, and paid to the said county board an examination fee of one dollar, he shall be entitled to a certificate of such completion and examination, signed by said county board and approved by the Superintendent of Public Instruction, who shall affix thereto his official

seal. The Superintendent shall prepare a proper form for said certificate. One such examination shall be held in each county on the last Thursday in January, and another on the last Thursday in June of each year.

II. SCHOOL FUND.

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| <p>§ 8. Of what the school fund shall consist.</p> <ol style="list-style-type: none"> (1.) Interest on the bond of the Commonwealth. (2.) Dividends on bank stock owned by the State. (3.) Interest on bond issued for surplus. (4.) Interest on bond of 1892. (5.) Annual State Tax. (6.) Proportion of revenue received from licenses, and from fines and forfeitures. <p>9. The foregoing shall constitute the annual resources of the school fund; how appropriated.</p> | <p>§ 10. Use of fund.</p> <ol style="list-style-type: none"> 11. Duty of the Auditor in relation to the common school fund. 12. Net revenue of the common school fund to be distributed. Discounts on checks and other incidentals to be paid by fiscal courts. 13. Manner of estimating <i>pro rata</i> share of common school fund for each pupil child of the Commonwealth; county and district apportionment. 14. Manner of distributing amount of school fund due each county, city, etc. |
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SEC. 8. [**School Fund.**].—The school fund shall consist of the fund dedicated by the Constitution and laws of this Commonwealth for the purpose of sustaining a system of common schools therein: (1.) The interest on the bond of the Commonwealth for one million three hundred and twenty-seven thousand dollars (\$1,327,000) in aid of common schools, at the rate of six per cent. per annum, payable semi-annually on the first day of January and July of each year. (2.) The dividends on seven hundred and thirty-five shares of the capital stock of the Bank of Kentucky, representing a par value of seventy-three thousand five hundred dollars owned by the State. (3.) The surplus, three hundred and eighty-one thousand nine hundred and eighty-six dollars and eight cents (\$381,986.08), now due the several counties, and remaining a perpetual obligation against the Commonwealth for the benefit of said respective counties, for which the Commonwealth shall execute its bond, bearing interest at the rate of six per centum per annum, payable annually on the first day of July to the counties respectively entitled to the same, and in the proportion to which they are entitled, to be used exclusively in aid of common schools. Said bond shall be executed by the Governor and attested by the Secretary of State for and on behalf of the Commonwealth of Kentucky, and

when said bond is executed the old bond for three hundred and seventy-eight thousand nine hundred and forty-six dollars and seventy-one cents, being part of said bond, shall be canceled and destroyed. (4.) The interest at six per cent. per annum, payable semi-annually, on the first day of January and July, on six hundred and six thousand six hundred and forty-one dollars and three cents (\$606,641.03), received from the United States under an act approved March 2, 1891, for which the Commonwealth has executed bond pursuant to an act approved March 12, 1892. (5.) The annual tax of twenty two cents on each one hundred dollars of value of all real and personal estate and corporate franchises directed to be assessed for taxation. (6.) Such portions of fines, forfeitures and licenses which may be realized by the State as the amount of taxes for common school purposes bears to the whole State tax other than for the benefit of the Agricultural and Mechanical College.

SEC. 9. [Entire Annual Resources—How Appropriated.]—The foregoing shall constitute the annual resources of the school fund of Kentucky, and shall be paid into the Treasury, and shall not be drawn out or appropriated, except to pay the expenses of the State Department of Education of whatever character or kind, and in aid of common schools, as provided in this chapter.

SEC. 10. [Use of Fund and its Revenue.]—Except as otherwise expressly provided in this chapter, no part of the common school fund, or of the revenue thereof, shall be used for any other purpose than the payment of teachers of common schools, legally qualified and employed in pursuance thereof.

SEC. 11. [Duty of Auditor.]—The Auditor shall keep the accounts in relation to this fund. He shall, once in each month, make a transfer to the credit of said fund of all receipts into the Treasury, with the source of each item, for the benefit of the common schools up to the date of such transfer. He shall allow no expenditures on that account beyond the annual revenue of the fund, and shall see that no county draws more than its proper proportion.

SEC. 12. [Distribution of Net Revenue.]—The net revenue of the fund accruing during each school-year shall constitute

the sum to be distributed. But no fees to county judges or clerks, discount on checks, or other incidental expenses, shall be paid out of the distributable share of the revenue apportioned to any county ; but such payment, when allowed by the fiscal court, shall be made out of the county levy.

SEC. 13. [**Estimate—Pro Rata Apportionment.**—The Superintendent of Public Instruction shall, on or before the fifteenth day of July in each year, ascertain and estimate for the school-year the *pro rata* share to which each pupil child will be entitled, according to the whole number of such children residing in each county and each school district, respectively, as shown by the returns of the county superintendent. If, at the time of making such estimate and apportionment, the census returns of the superintendent for any county have not been made to him, he shall use the census returns made for the previous year. It shall be the duty of the Auditor to furnish the Superintendent of Public Instruction such data as may be needed in making such estimate and apportionment. It shall be the duty of the Superintendent of Public Instruction, as soon as practicable, to file such a copy of said estimate and apportionment with the Auditor, and to inform each county superintendent of the amount to which each school district of his county shall be entitled. Whatever difference may exist between the estimated and the actual revenue of the school fund for any school-year shall be taken into the account of the estimate and apportionment for the succeeding school-year. If the *pro rata* share of any school be not called for, after the second school-year it shall be covered into the Treasury, and be placed to the credit of the school fund for general apportionment the following school-year. When any school district in any school-year shall have failed to use all or any part of the money due it for such school-year, such district shall be entitled to said money for the next school-year, provided the term of the common school for that year shall be extended for such proportion of a term as the said accumulated money bears to the said amount due said district in the year in which said money is paid. A detailed statement of the surplus amount to which each county is entitled shall be made out by the Superintendent of Public Instruction, and filed and preserved in his

office. The bonded surplus in the State Treasury to the credit of the counties shall bear interest at the rate of six per cent. per annum, and the *per capita* derived from said interest shall be duly apportioned to the white and the colored schools of the county respectively, and be paid as provided in the following section: *Provided*, That when any county heretofore established out of territory belonging to a county or counties having a surplus which has not been apportioned among said counties, and when any new county shall hereafter be established out of territory belonging to a county or counties having such a surplus, then the Superintendent of Public Instruction shall apportion such surplus among the original and new counties in an equitable manner.

SEC. 14. [Successive Warrants Distributing School Fund.]

—For each school-year the Auditor of Public Accounts shall, on the successive warrants of the Superintendent of Public Instruction, distribute the amount of the school fund due each county to its county superintendent of common schools, and the amount due each city, town or village, organized as one district to the treasurer of the school board thereof, as follows: On or before the first of October, two-fifths of the whole amount; on or before the first of November, one-fifth of the whole amount; on or before the first of December, one-fifth of the whole amount, and on or before the first of January, the residue, including the undistributed surplus and interest on the county bond.

III. BOARD OF EDUCATION.

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| <p>§ 15. Members, character, name and style of the Board of Education.</p> <p>16. Power of Board in regard to real and personal estate.</p> <p>17. Chairman and quorum of Board.</p> <p>18. Meetings of the Board only on the written call of the Chairman.</p> <p>19. Corporate acts.</p> | <p>§ 20. Board, a standing committee to prepare rules, by-laws and regulations for common schools, and to select and recommend course of study, books for county and district libraries; duties of County Superintendents and of Trustees.</p> <p>21. Subjects of instruction prescribed by the Board.</p> |
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SEC. 15. [How Constituted.]—The Superintendent of Public Instruction, together with the Secretary of State and Attorney-General, shall constitute the State Board of Education. The Board thus constituted shall be a body-politic and corporate, by the name and style of the Kentucky State Board of Education.

SEC. 16. [**Powers as to Real and Personal Estate; Custodian of Evidences.**].—The corporation may take, hold and dispose of real or personal estate for the benefit of the common schools of the State. The bonds, certificates of stock, and other evidences of property held by the board for common school purposes, shall be in the custody of the chairman, and the place of deposit shall be shown by the records of the board.

SEC. 17. [**Chairman; Quorum.**].—The Superintendent of Public Instruction shall be chairman of the board, and, with one other member, may control its corporate action at any regular or called meeting of the board, of which all of the members shall have had timely notice in writing.

SEC. 18. [**Meetings—How Called.**].—The board shall meet only on the written call of the chairman.

SEC. 19. [**Corporate Acts.**].—The corporate acts of the board shall be attested by the signature of the chairman, and his private seal shall stand in lieu of a corporate seal.

SEC. 20. [**Standing Committee.**].—The State Board of Education shall constitute a standing committee, who shall prepare rules, by-laws and regulations for the government of the common schools of the State, which shall be adopted and enforced under the authority and direction of the county superintendents, trustees and teachers; shall prescribe regulations for the management of county teachers' libraries, and prepare suitable lists of books for district libraries, with regulations for the management thereof; shall prescribe and publish a public graded course of study for the common schools, specifying the order of studies, and the time to be allotted to each, which course of study shall be observed by the teacher, and enforced by the trustees.

SEC. 21. [**Course of Study.**].—The instruction prescribed by the board shall embrace spelling, reading, writing, arithmetic, English grammar, English composition, geography, physiology and hygiene, civil government, United States history and the history of Kentucky. After July 1, 1893, the nature and effects of alcoholic drinks and narcotics upon the human system shall, in all schools supported wholly or in part by the State, be taught as thoroughly as other required studies to all pupils studying physiology and hygiene as a part of this branch.

IV. SUPERINTENDENT OF PUBLIC INSTRUCTION.

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| <p>22. Official oath and beginning of term of office.</p> <p>23. Salary, supplies for office, and number and appointment of clerks.</p> <p>24. State Board of Examiners.</p> <p>25. Office at seat of government; entire time and attention must be devoted to the duties of his office.</p> <p>26. Duties in respect to all orders drawn, settlements, and all changes in office of County Superintendents.</p> <p>27. Biennial report, when it shall be made, what it shall contain, and its publication and distribution.</p> <p>28. In report, objects, methods of admission, etc., of State educational charitable institutions shall be set forth.</p> <p>29. Evidence of certified copies of records and papers in his office.</p> <p>30. Official blanks and documents, with instructions, as provided by law.</p> <p>31. Shall biennially edit school laws.</p> | <p>32. Duty to report to county attorney, any neglect of duty or misappropriation of common school funds on the part of any of the school officers.</p> <p>33. Shall have published for annual distribution, the general school laws, abstracts of decisions of the Appellate Courts and of the Attorney-General on school-law, etc.</p> <p>34. Official decisions on any question of difference or doubt in the interest of common schools, and record of decisions to be kept.</p> <p>35. Duty in regard to any donation, gift, or devise to common school fund; duty of agent, compensation and liability on bond; special conditions, of any donation, etc., shall be observed.</p> <p>36. On retiring from office, official books, papers and effects must be delivered to successor; penalty for failure.</p> |
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SEC. 22. [**Oath; Bond; Beginning of Term.**].—The Superintendent of Public Instruction shall take the oath, and enter upon the duties of his office, on the first Monday in January after his election, and shall give bond to the Commonwealth, with good security, for the faithful performance of his duties, to be approved by the Governor, with at least twenty-five thousand dollars, the bond to be filed in the office of Secretary of State.

SEC. 23. [**Salary—Office Supplies—Clerks.**].—His salary shall be two thousand five hundred dollars per annum; besides which, he shall be entitled to all office fixtures, stationery, books, postage, fuel and lights needed to carry on the work of his office. He shall have power to appoint three clerks, namely: A chief clerk, whose salary shall be fifteen hundred dollars per annum; a first clerk, whose salary shall be one thousand dollars per annum, and a second clerk, whose salary shall be eight hundred and fifty dollars per annum. Said salaries to be paid monthly out of the common school fund.

SEC. 24. [**State Board of Examiners.**].—The Superintendent of Public Instruction shall appoint two professional educators, who, together with himself, shall constitute a State Board of Examiners, who shall examine all applicants, personally ap-

plying to them, for certificates of qualification as county superintendents, or for State diplomas or State certificates. The said Board of Examiners shall prepare the series of questions for the examination of candidates for county superintendents, as provided in section 37 of this chapter, and also the different series of questions for the examination of teachers as provided in section 133 of this chapter, and before forwarding to the county superintendents, shall submit all of the said series to the State Board of Education for their approval.

SEC. 25. [**Office and Work.**].—He shall keep his office at the seat of government, in such suitable buildings as may be provided, and shall devote his entire time and attention to the duties of his office.

SEC. 26. [**Accounts—Settlements—Changes of County Superintendent.**].—He shall keep an account of all the orders drawn or countersigned by him on the Auditor; of all the returns of settlements, and of all changes in the office of county superintendents, which shall be furnished to the Auditor whenever required.

SEC. 27. [**Biennial Report.**].—He shall, biennially, on or before the meeting of the General Assembly, make report of the condition, progress and prospects of the common schools; the amount and condition of the school fund; how its revenue for the two previous school-years had been distributed; the amount produced and disbursed for common school purposes from local taxation or other sources, and how and for what the same was expended; an abstract of the county superintendent's reports, the practical workings of the common school system of the State, with suggestions as to any alterations it may require; all of which, together with such other facts, statistics and information as may be deemed of interest to be known, he shall deliver to the contractor for the public printing, and cause to be printed a copy for each school district, and for each county and city superintendent of schools in the State, seven hundred and fifty copies for the use of the members of the General Assembly and for exchange with the Superintendents of Public Instruction of other States, and five hundred copies for distribution by the Superintendent according to his discretion.

SEC. 28. [**Educational Charitable Institutions.**—The Superintendent, in his report, shall set forth the objects, methods of admission, and other general information concerning the institutions for the blind, the deaf and dumb, and the feeble-minded; and, to aid him in his work, the superintendent of those institutions shall be required, annually, by the first day of September, to furnish the Superintendent of Public Instruction with such condensed statement of their respective institutions as it would be profitable to publish.

SEC. 29. [**Of Certified Copies of Records, etc.**—Copies of records and papers in his office, certified by him, shall, in all cases, be evidence equally with the originals.

SEC. 30. [**Blanks—Official Documents—Instructions.**—He shall prepare suitable blanks for reports, registers, certificates, notices, and such other official documents as may be provided for in this chapter, and shall cause the same, with such instructions and information as he may deem necessary to a proper understanding and use of them, to be transmitted, to the officers and persons intrusted with the execution of the provisions of the school law.

SEC. 31. [**Shall Biennially Edit Laws.**—The Superintendent of Public Instruction shall biennially collect, arrange for publication and index the school laws, omitting all that has been repealed, and inserting in its proper place that which is amendatory.

SEC. 32. [**Report Neglect of Duty, etc.**—It shall be his duty to report any neglect of duty or any misappropriations of common school funds on the part of the county superintendents or trustees of common schools in this Commonwealth to the county attorney, whose duty it shall be, whenever such neglect of duty or misappropriations of funds shall come to his knowledge, to prosecute such person in the circuit court of the county.

SEC. 33. [**Publications for Annual Distribution.**—He shall have published, for annual distribution throughout the State, the general school laws of the State, abstracts of the decisions of the appellate courts and of the Attorney-General, on points of school law and construction thereof, decisions, rules and regulations of the State Board of Education and of the State

Board of Examiners plans and specifications for building school-houses ; information and instructions in regard to application of the school law and the management of the common schools, important official and legal periods of the school-year, with due notice thereof ; and such other important facts and data as may be of interest to the public.

SEC. 34. [**Official Decisions ; Appeals ; Records.**]—The Superintendent of Public Instruction shall, at the written request of any county superintendent of common schools, decide any question of difference or doubt touching the administrative duties of officers and teachers of the common schools in his county. The decision of the Superintendent of Public Instruction shall, in such case, be final, unless appeal be prosecuted from his decision to the State Board of Education within thirty days. Before rendering such opinion, the Superintendent may obtain the advice of the Attorney-General, whose opinion, in writing, shall be conclusive for the time, and sufficient defense against all parties. The decisions of the Superintendent of Public Instruction, and the opinion of the Attorney-General, shall be duly filed and duly recorded in a book kept for that purpose.

SEC. 35. [**Duty in case of Donation, Gift or Devise.**]—Whenever he shall be informed that any donation, gift or devise of any real or personal estate shall have been made to the common school fund of Kentucky, it shall be the duty of the Superintendent of Public Instruction to appoint some discreet person, who shall take charge of the real or personal estate so granted, devised or donated, and sell and dispose of the same, and pay the proceeds into the State Treasury. Before said agent so appointed by the Superintendent of Public Instruction shall proceed to act, he shall give a bond, with good security, to the Commonwealth, for the faithful discharge of his duties, as agent. Said bond shall be given in the county in which the donor, grantor or deviser shall have died, or in the county in which the property is situated, the bond to be executed in, and approved by, the county court. The person so appointed shall make a settlement with the county court of his county once in each year, and shall pay into the Treasury the amount found in his hands after said settlement. The court shall allow said per-

son a reasonable compensation for collecting and paying over said money, not exceeding ten per cent. on the first five hundred dollars, and five per cent. on the residue, which amount said person shall retain in his hands out of the money collected. For any failure of the person so appointed to discharge the duties under this law, he and his sureties shall be liable to all damages sustained, and for all money collected, with twenty per cent. damages on the amount so collected, and which he has failed to pay over. The suit on the bond shall be brought in the name of the Commonwealth of Kentucky, and shall be instituted by the Commonwealth's attorney, or county attorney. The person appointed by the Superintendent of Public Instruction shall have the same power in collecting and settling the estate as an administrator or executor now has by law; may institute and defend all suits in reference to said estate, and sell and convey the real estate by deed. The amount of money paid into the Treasury under the provisions of this section shall remain there until disposed of by law, and the Treasurer and his sureties shall be liable for the same on his official bond. This section shall apply to all gifts, donations or devises heretofore or hereafter made to the school fund of Kentucky. But the provisions of this section shall not apply to cases where the terms or conditions of the devises, gifts or donations conflict with said provisions; but, in such cases, the terms or conditions of the devise, grant or donation shall be carried out as intended by the person making the same.

SEC. 36. [**Duty to Successor.**].—Upon retiring from office, the Superintendent of Public Instruction shall deliver to his successor all books, papers and effects belonging to the office; and, on failure to do so, shall be fined in a sum not less than one hundred nor more than five hundred dollars, to be recovered by indictment in the Franklin Circuit Court.

V. COUNTY SUPERINTENDENT.

37. Moral, professional, and civil qualifications.
38. Who ineligible.
39. Election; term of office; residence.
40. Official bond—amount, and when renewed.
41. Power in regard to laying off, altering, abolishing, consolidating and laying off anew school districts; shall condemn any school-house unfit for occupancy as a common school, and notify the trustees in writing; shall visit at least once a year each district school, keep due record of his visit, and shall advise with teachers and counsel with Trustees concerning their respective duties.
42. Must prepare annually, and forward to Superintendent of Public Instruction a census report, by school districts, of all the pupil-children of his county; shall be individually responsible for any loss to Teacher for any error of his own, in reporting said census; report based upon reports of district Trustees; duty in absence of such reports.
43. Must take steps to supply indigent children with text-books.
44. Must furnish facts additional to those expressly required by law, when the interests of the common schools indicate the necessity therefor.
45. When shall pay Teachers amounts due them on certificates of Trustees that the schools had been duly taught; privilege in cities and towns organized as one district; President or Chairman of Board to report; accountability of Treasurer and his securities in any action by School Board.
46. Penalty for false reports of number of common schools taught in county greater than actually taught, or of a larger number of pupil-children than are actually in the county, or otherwise knowingly and willfully misstating any fact or facts required by law to report.
47. Annual settlement of accounts with County Judge; a copy to be forwarded to Superintendent of Public Instruction; penalty for willful failure.
48. Annual report of statistics of schools and of amount raised locally and disbursed for common school purposes; amount received for official compensation and expenses; penalty for failure.
49. Shall keep a detailed account of all money received and distributed by him; a record of all official business, etc., which shall be subject to inspection.
50. Any devise, gift, or donation, in aid of common schools in county, to be held in trust; settlement to be duly made and copy sent to Superintendent of Public Instruction.
51. May administer oath required of a Trustee or of a Teacher of common schools, or of other persons in matters relating thereto.
52. Oath to Trustees elect; shall make record of Trustees qualified, and of district and post-office of each; deliver blanks and needed information; force of notice to Trustees.
53. Duty as to attendance at office to receive reports from Trustees and to transact other official business.
54. Penalty for buying for himself or for another, directly or indirectly, any Teacher's claim, or for acting as agent for the sale of any text-book.
55. When authorized to suspend or remove any Teacher or Trustee from office; exception in cities and towns organized as one district; shall supply a vacancy from any cause in either of said offices by appointment as soon as practicable.
56. Shall decide all questions of difference or doubt having reference to interests of common schools in his county; appeals may be had to Board of Education; shall conform to reasonable rules and requirements of Superintendent of Public Instruction.
57. Salary for all services rendered and expenses incurred; condition; salary, how paid; shall state full amount in report to Superintendent of Public Instruction; fiscal court shall furnish office.
58. In event of vacancy in office, appointment of successor duly qualified, by County Judge until next annual election; when and for what, County Court competent to remove County Superintendent; appeals may be taken.
59. Shall deliver money, property, books, effects, and papers, to successor, or to County Court Clerk, for him penalty for failure.

SEC. 37. [**Qualifications; Certificate.**].—There shall be a county superintendent of common schools in each of the counties of the State, who shall be possessed of moral character and of ability to manage the common school interests of the county efficiently. He shall possess a good English education, and shall be competent to examine the teachers who shall apply to teach the common schools in the county. He shall be twenty-four years old at the time of qualifying, a citizen of Kentucky, shall have resided two years next preceding the election in this State, and one year in the county for which he is a candidate. No person shall be eligible to the office of county superintendent unless he shall hold from the State Board of Examiners a State diploma or a State certificate, which will not expire during his proposed term of office, or a certificate of qualification of the grade of a county certificate of the first class, which may be granted on an examination held before said board, or upon a written examination held by a special county board, composed of the county judge, county clerk, and a competent person selected by them, upon a series of questions for each examination prepared and forwarded under seal by the State Board of Examiners. The State Board of Examiners shall inclose the questions upon each subject in a separate envelope, with the name of the subject printed or written thereon; shall securely seal the envelope containing the said questions and inclose them in a package, which shall be sealed and forwarded by registered mail to the county clerk, and shall be kept under seal by him till the hour of examination; and the seal shall then be inspected by the other examiners and the applicants for certificates, and be duly opened in their presence. In case of sickness or other disability of either the county judge or county clerk, his duties herein prescribed shall devolve upon and be performed by the county attorney. The examination shall be held in every county on the last Friday in July and August next preceding the election of county superintendents, and the examination may be continued during the following Saturday by examiners, if deemed necessary. The examination shall be held in every county on the last Saturday in July next preceding the election of county superintendents, and the written answers of each examina-

tion shall immediately be forwarded by the county judge or county clerk, by registered mail, to the State Board of Examiners, together with a fee of two dollars, which shall be paid to the two examiners, and the sworn statements of the county judge, county clerk, and the persons selected by them, that the examination had been conducted in their presence in strict accordance with the provisions of this section, and that no applicant had, directly or indirectly, received assistance. The State Board of Examiners may, if they deem the answers sufficient, grant a certificate; and if they refuse, it shall notify the county clerk, and no certificate can then be granted said applicant for the election then pending. The said certificate shall not entitle the holder thereof to teach in the common schools. A county superintendent, who has once obtained a certificate of qualification in pursuance of this section, shall not be required to obtain another certificate as a condition of eligibility for re-election, if he has been continuously in office since his election. The members of the special county board shall receive for their services a reasonable compensation, to be allowed by the fiscal court. In counties embracing any city of the first class, maintaining a system of public schools separate and distinct from the common schools of the county, no person shall be eligible to the office of county superintendent other than a resident of such county, outside of such city or town.

SEC. 38. [**Who Ineligible.**].—No county judge, justice of the peace, circuit clerk, county clerk, county attorney, county surveyor, sheriff, coroner, assessor, trustee of a common school district, or teacher while engaged in teaching, shall hold the office of county superintendent.

SEC. 39. [**Election; Term of Office.**].—The county superintendent shall be elected by the qualified voters of each county at the November election in 1893; shall enter upon the discharge of the duties of his office on the second Monday in August, 1894, and continue in office until the first Monday in January, 1898, and until the election and qualification of his successor. And in 1897, and every four years thereafter, there shall be in each county an election of a county superintendent, who shall hold his office four years from the first Monday in January fol-

lowing his election, or until the election and qualification of his successor. The county superintendent shall be elected, and the vote canvassed and the result certified by the same officers, and in the same manner, as in the election of other county officers; and within ten days after the election the clerk of the county court shall forward a copy of the certificate of election to the Superintendent of Public Instruction. All county superintendents in office at the time of the November election, 1893, shall continue in office until the second Monday in August, 1894, or until their successors are elected and qualified. In cases of controverted right to the office of county superintendent, the Superintendent of Public Instruction shall have power to recognize a superintendent from among the contestants until the case has been settled: *Provided*, That in counties containing a city of the first class maintaining a system of public schools separate and distinct from the common schools of the county, the county superintendent shall reside in the portion of the county outside of such city, and be elected by the qualified voters of said county residing outside of such city.

SEC. 40. [**Official Bond.**].—Before entering upon the discharge of his duties, each county superintendent must enter into a covenant before the county court of the county, to the Commonwealth of Kentucky, with sufficient security, in not less than the full amount of the school fund that may be due the county from all sources for that entire school year, to be approved by the court, for the faithful discharge of his duties, and the said bond shall be renewed each year.

SEC. 41. [**Power over Districts—Unfit School-Houses—Official Visits.**].—The county superintendent shall have power, previous to the first day of April of each year, to lay off, abolish or consolidate districts, and, if necessary, may lay off anew the districts throughout the county. He shall condemn any school-house which is dilapidated, unhealthy, or otherwise unfit to be occupied for the purpose of a common school, and any fence or other inclosure of a school-house, when such inclosure is for any reason insufficient for the protection of the house or ground. He shall condemn all school furniture or apparatus, insufficient in quantity or not of the required character, and order the same replaced with the proper furniture or apparatus as prescribed

in section 78. He shall, within thirty days after any such condemnation, notify the trustees in writing. He shall, at least once a year, make an official visit to each district school of his county, but shall not make more than three such official visits in any one day. At the time of such visit he shall note in a book, to be kept for that purpose, the number of pupils in attendance; the number absent, and the cause of absence; the names of children unable to purchase books; the condition of the school-house, furniture, apparatus, grounds and appurtenances; the qualification and efficiency of the teacher; the conduct and standing of the pupils; the method of instruction; the discipline and government of the school. In the visits to the school he shall advise with the teachers and give them such instruction regarding discipline and teaching as he may deem necessary. He shall counsel the trustees and see that they discharge their duties, especially in securing full and regular attendance. He shall admonish the teacher found remiss of duty in the matter of cleanliness of house, preservation of furniture and necessary ventilation, and complain to the trustees in cases of gross neglect of duty in these respects. He shall examine the teacher's register and grade-book, and the trustees' register; if the boundary of the district is not correctly given, he shall write it in said book himself, see that the records are properly kept, and the boundary of the district, the contract with the teacher, the levy of a tax, if any, and the official visits and proceedings of the trustees are properly recorded, and by every means in his power strive to promote and advance the cause of common schools.

SEC. 42. [**Census Report—Responsibility for Errors**]—It shall be the duty of each county superintendent, on or before the first day of June of each year, to prepare, mail to, and cause to be placed in the hands of the Superintendent of Public Instruction a report, certified by the county judge or clerk that the report is a correct statement, as shown from the census on file in the office of the clerk of the county court, showing the whole number of children, between the ages of six and twenty years residing in his county, and the whole number residing in each district, including each city and each independent district, described by its number; and he shall be individually responsible to the

teacher or the district for any loss sustained by said teacher or district by reason of any error made by the said superintendent in reporting the census thereof. He shall superintend the census taken during the month of April by the trustees, and not later than the twentieth of March of each year, shall notify the chairman of the board of trustees that the boundaries of the district are as recorded for the past year in the trustees' register; or, if any changes have been made, shall give to the chairman exact notice of such changes, and, in due time, see that the said changes are included in the description of the boundary entered in the trustees' register. At the time of such notice, he shall give the said chairman printed or written instructions for taking the census; caution him against reporting persons not legally belonging thereto, and calling his attention to section 85. He shall base his report upon the census taken during the month of April, and reports thereof made to him by the district trustees. If such reports are not in from any district by the tenth of May, the county superintendent shall take, or have the census of such district taken, the cost of which shall be paid out of the county levy, and the fiscal court may recover from the delinquent trustees the amount so paid.

SEC. 43. [**Text-Books for Indigent Children.**]—It shall be the duty of each county superintendent, before the opening of the schools each year, and from time to time, by personal observation or from trustees and teachers and otherwise, to ascertain the number and cost of text-books upon each of the common school branches needed by the indigent children of each district and of the county for use in the common schools, and shall report to the county judge the number and kind of books needed, when the county judge shall purchase the books and pay for them by an allowance made by the fiscal court of the county; the county judge shall turn them over to the county superintendent for distribution, taking receipt for the number and value of the books, but the cost of said books shall not exceed in the aggregate one hundred dollars in any county per annum. It is hereby made the special duty of the county and the city school superintendent of common schools to report to the county judge the names of all such indigent children furnished them by trustees, and to see that the provisions of this section are faithfully executed.

SEC. 44. [**Additional Facts to be Reported.**].—County superintendents and trustees of common schools shall report facts additional to those now required to be reported, whenever, in the judgment of the board or of the Superintendent of Public Instruction, the interests of the common schools of the State shall indicate the necessity therefor.

SEC. 45. [**Payment of Teachers.**].—Each county superintendent of common schools shall, on the second Saturday in October, reckoning school months of twenty days, pay the amount due each teacher of a common school for the month or months completed, but not for any fraction of a month, except as provided in section 135, on the certificate of the board of trustees for the district that the school has been legally taught for that period; and thereafter the county superintendent shall, on the second Saturday of each calendar month, pay the salary due each teacher of a common school for the previous school month or months not previously paid for, on the certificate of the chairman of the board of trustees for the district that the school has been legally taught for the period specified: *Provided*, That all of said payments shall be made to the teacher personally or on written order, and that the last payment shall be for the entire balance due the teacher, including the undistributed surplus and interest on the county bond; and that any teacher who may violate his contract with the trustees by refusing to continue his school, shall forfeit any fractional salary that may be due him. In cities and towns organized as single districts, and reporting direct to the Superintendent of Public Instruction, the provisions of this section shall equally apply, or such city or town may receive in January the whole amount due it if it shall so desire. In either case the president or chairman of the school board of such cities or towns shall make the report required of them by this law, under oath, direct to the Superintendent of Public Instruction, and he shall draw his warrant on the Auditor of Public Accounts in favor of the treasurer of such school board, which, when approved and countersigned by the Superintendent of Public Instruction, shall entitle such treasurer to a warrant on the Treasury of the State for the amount thereof; and the said treasurer and securities shall be accountable for the same upon his official bond in any action by such

school board, of which the Superintendent of Public Instruction shall be officially notified.

SEC. 46. [**Penalty for Fraudulent Report of Common Schools.**—Any county superintendent who shall knowingly and willfully report to the Superintendent of Public Instruction a number of common schools as having been taught in his county greater than the number of such schools actually taught therein according to law, or a number of children entitled to tuition in his county greater than the actual number of such children, or otherwise knowingly and willfully misstates any fact or facts which he is, or may be hereafter, required by law to report to the Superintendent of Public Instruction, shall be deemed guilty of a felony, and, upon conviction thereof, be fined in a sum not less than two hundred nor more than five hundred dollars, or imprisoned in the penitentiary not less than one nor more than ten years, or both fined and imprisoned, in the discretion of the jury, and be removed from office. And all sums recovered from him by due process of law, or by voluntary surrender of the excess taken by him, shall be paid into the school fund.

SEC. 47. [**Annual Settlement.**—Each county superintendent shall, on or before the first day of August annually, settle his accounts for the previous school-year with the county judge of his county, and forward a copy of said settlement, certified by the clerk of said court to be correct, to the Superintendent of Public Instruction. Said settlement shall embrace all sums received since the date of his last settlement by said county superintendent for the benefit of common schools taught during the school-year; a full statement of all such sums paid out by him, for what, to whom, and when paid; and should any part of said fund received by him, as aforesaid, remain uncalled for, and not be paid out, he shall immediately refund said amount to the State Treasurer, stating why it was not, for and to what district it belongs, and at the same time notify the Superintendent of Public Instruction that he has refunded the said amount, that he may give said county superintendent proper credit on his books for said amount refunded. The receipt of the Auditor for money refunded shall be a sufficient voucher with the county judge in said settlement. Should the

copy of such settlement fail to reach the Superintendent of Public Instruction by the tenth day of that month, it shall be his duty to notify the county judge and the delinquent county superintendent of the fact; and upon receiving such notification, it shall be the duty of the judge, in case the settlement shall not have been made, immediately to compel a settlement by attachment, as in cases of contempt, and a copy thereof to be forwarded to the Superintendent of Public Instruction. For his willful failure to pay out to those entitled thereto any money in his hands for the space of thirty days after the same shall be received by him, or for his willful failure to make the aforesaid settlement by the time required by law, the county superintendent shall be guilty of a misdemeanor, and, being indicted and convicted thereof, he shall be fined in a sum not less than one hundred nor more than five hundred dollars, as well as remain liable on his official bond, and be removed from office.

SEC. 48. [**Annual Report—Penalty for Failure.**—He shall, previously to the first of September, prepare and mail, and cause to be placed in the hands of the Superintendent of Public Instruction, his official report, showing, in tables of details and aggregates, the school districts of his county by number; the names and address of trustees of each district, with date at which each one's term expires; the districts in which schools were taught, and the length of time taught; the highest, lowest and average number of children at school; the cost of tuition of each child for the session and per month; the number of private schools, academies and colleges taught in the county, and length of session of the same; the number of teachers employed—male, female and total—for the common schools; the average wages of male teachers, female teachers, and of total teachers per month; the name and address of teachers resident in his county, with grades of certificate of each; the amount of money raised for common school purposes in the county, by local tax or otherwise, and for what the same was disbursed; the number and kind of school-houses, and the value of each; the number of school-houses built, and the value of each; the number of district libraries; also county library, if any, and number of

volumes in each, and the increase during the year; the amount he has received for official compensation and expenses. For willful failure to be present at his office at the time appointed to receive reports, or for failing to make the reports herein required, he shall be fined a sum not exceeding fifty dollars.

SEC. 49. [**Official Record.**].—Each county superintendent shall keep a detailed account of all money received and distributed by him; a record of all business transacted by him as county superintendent, together with the reports of the trustees; the names, numbers and description of school districts, and all other papers and documents connected with his office, at all times subject to inspection and examination by any school officer or other person interested in any question pertaining to the common schools.

SEC. 50. [**Devise, Gift or Donation.**].—Any devise, gift or donation of any real or personal estate in aid of the common schools of any county of this State shall be held in trust by the county superintendent, and he shall be required to make settlement in regard thereto, in the same manner in which, and at the time when, he makes settlement in regard to the moneys received from the revenue of the school fund; and he shall send a copy of such settlement to the Superintendent of Public Instruction.

SEC. 51. [**May Administer Oath.**].—A county superintendent may administer the oath required of a trustee or of a teacher of common schools, or other persons required to make oath in matters relating thereto.

SEC. 52. [**Oath to Trustees; Record of; Blanks; Official Notices.**].—He shall administer the oath of office to trustees-elect applying to him for that purpose; but it shall be lawful for any justice of the peace, or other person authorized to administer oaths, to administer the oath of office to any trustee; but said oath shall not be valid unless reported in writing to the county superintendent by said justice or other person, within ten days from the time when administered. He shall make a record of the names of trustees then qualified, showing the districts in which they were elected, and the post-office of each. He shall, at the time, deliver to the trustees of each district such blanks as they will need for the coming school-year, and

give such information with regard to their duties as may be requested. He shall address all official correspondence to the trustees. Notice to them shall be regarded as notice to the people of the district, and it shall be the duty of the trustees to notify the people.

SEC. 53. [**Attendance at Office.**].—It shall be the duty of the county superintendent to be in attendance at his office, at the county seat, on the second Saturday of each month, and at such other times as may be necessary to transact his official business.

SEC. 54. [**Penalty for Buying Teacher's Claim or Acting as Text-Book Agent.**].—No county superintendent shall be allowed to buy, for himself or another, any teacher's claim, directly or indirectly, or to act as agent for the sale of any text-book. Any superintendent guilty of violating this section shall be fined not less than one hundred nor more than one thousand dollars for each offense.

SEC. 55. [**May Suspend or Remove Teacher or Trustee; Condition.**].—For incompetency, neglect of duty, immoral conduct, or other disqualification, the county superintendent may suspend or remove from office any trustee or teacher of any school under his supervision. But before a county superintendent shall suspend any trustee or teacher, he shall give said trustee or teacher at least five days' notice of the charges made against him, and give the trustee or teacher an opportunity to produce evidence, and defend any action against him.

SEC. 56. [**Official Decisions; Appeals; Relations to Superintendent of Public Instruction.**].—The county superintendent shall decide all questions of difference or doubt touching the administrative duties of the officers and teachers of common schools in his county; but appeals from his acts and decision may be had, on petition of any interested person, to the Superintendent of Public Instruction. The county superintendents shall conform to such reasonable rules and requirements as the Superintendent of Public Instruction shall, from time to time, prescribe and announce to them.

SEC. 57. [**Compensation for Services.**].—For all the services rendered and the expenses incurred by the county superintendent under the provisions of this law, he shall be allowed a salary annually by the fiscal court of his county, based on the number

of children reported in the census report of the district trustees of such county ; which salary shall not be less than eight cents nor more than twenty cents for each pupil child thus reported. Before the court shall allow the salary, it shall be satisfied, from the statement subscribed and sworn to by the superintendent, and from such other evidence as may be adduced, that he has visited the schools of the county, and that the said services have been faithfully and efficiently performed according to law. Said salary shall be paid out of the county levy as the salary of the county judge is now paid ; and, in his report to the Superintendent of Public Instruction, he shall state the full amount allowed him by the fiscal court for his official services : *Provided, however,* That no salary shall be less than \$250 nor greater than \$1,500. In fixing the salary of the said superintendent, no child shall be counted or enumerated who is under a city school superintendent of a city of the first, second, third or fourth class. The fiscal court shall furnish the county superintendent with a suitable office, free of charge, large enough to accommodate the county teacher's library.

SEC. 58. [**How Vacancy in Office is to be Supplied—Removal From—Appeals.**].—In case of the death, removal or resignation, refusal to serve, or inability of the county superintendent elected to give the bond required or to perform the duties of the office, a successor shall be appointed or elected as follows : If the unexpired term will end at the next succeeding annual election, or, if the unexpired term will not end at the next succeeding annual election, and three months intervene before said annual election, the county judge of each county is authorized to appoint a successor, duly qualified according to section 37 of this law, to continue in office until the next succeeding annual election, when one shall be elected for the unexpired term. If the unexpired term does not end at the next succeeding annual election, and three months does not intervene between the happening of said vacancy and the next succeeding annual election, the county judge shall appoint a successor of said qualifications to continue in office until the second succeeding annual election, when one shall be elected for the unexpired term. In case of a vacancy in this office the county judge shall, as soon as practicable, notify the Superintendent of Public In-

struction, and request him to appoint a day and furnish questions for an examination to fill said vacancy; and the said examination shall be conducted in a manner prescribed by law. The county court may, at any regular term, after ten days' notice, remove a county superintendent for inability, for habitual neglect of duty, or malfeasance in office. An appeal to the circuit court may be taken from the order of the county court removing the superintendent, and from the circuit court to the Court of Appeals, as in civil actions.

SEC. 59. [**Duty to Successor.**].—Each county superintendent, when he resigns, vacates, is removed or goes out of office, shall immediately thereafter deliver to his successor or to the county court clerk for him, any money, property, books, effects or papers remaining in his hands as county superintendent, and within ten days shall settle with the county court, and for a failure to do so shall be fined not less than fifty dollars nor more than one hundred dollars.

VI. COUNTY BOARD OF EXAMINERS.

§ 60. Members—character and qualifications; the appointees must file oath in the office of County Clerk.

61. Must adopt a list of text-books on the subjects taught in the common schools, which books shall be uniformly used in the county for which adopted; character of books; cannot adopt books of a publisher who has not filed bond at State office; penalty for giving or receiving bribe.

62. Publishers must file bond and sample of books in office of Superintendent of Public Instruction, with prices; conditions of bond; penalty for failure or refusal to execute them.

§ 63. County certificates not to be granted to immoral persons or to any one under eighteen years of age; times prescribed for examinations; duty of the State Board of Examiners as to questions; manner of examinations; no certificate is to be granted applicant who indulges in drunkenness, profanity, or licentiousness, nor to one who gives or receives assistance.

64. No immoral person and no one under eighteen years of age to have a certificate—penalty; obtaining or attempting to obtain unlawfully, the State Board Questions, or selling, bartering or giving them away, made a misdemeanor, punishable by fine, not to exceed one hundred dollars.

SEC. 60. [**Qualifications of Members.**].—The county superintendent shall appoint two strictly moral and well-educated persons, holding county certificates of the first-class, State certificates, State diplomas, or diplomas from some literary institution of high learning, who, together with himself, shall constitute a board of examiners for the county. Before they shall be authorized to act in any capacity as such board, or grant any certificate, said examiners shall take and subscribe

to an oath that they will faithfully discharge their duties as required by the common school law, and the said affidavit shall be filed in the office of the clerk of the county court.

SEC. 61. [**Must Adopt Text-Books.**].—The county board of examiners in each county shall meet after the expiration of the period for which text-books have heretofore been adopted, and in counties where there have been no adoption of text-books within six months after this act takes effect, and shall adopt a list of text-books on the subjects taught in the common schools, and said text-books adopted by said board shall be uniformly used in the county for which they were adopted, and shall not be changed oftener than every five years, but said board shall not adopt any text-books of an immoral, sectional, or sectarian character for use in the common schools nor the text-books of any publisher or persons selling such text-books, unless said publisher or person has first filed in the office of the Superintendent of Public Instruction the bond as provided for in section sixty-two. Any county board of examiners of a county in which at the time a legal adoption of text-books has not been made who shall fail or refuse, within six months after the time when, by this section, they should have done so, to adopt a series of text-books on the subjects embraced in the common school course, shall each be subject to a fine of not less than one hundred nor more than two hundred dollars. It shall be the duty of the county superintendent to make and keep a record of the adoption of text-books, and to see that the adopted list of text-books is established and maintained in all the public schools in the county, and it shall be the further duty of the county superintendent to file and keep in his office the copy of the bond of any publisher or person selling text-books before the *ex officio* members of the State Board of Education, and forwarded to him by the Superintendent of Public Instruction; and when any of the books named in said bond shall be adopted for use in his county, and there is a breach of, or a failure to comply with, any of the provisions of the bond in his county, by the parties executing the same, he shall bring suit in the circuit court of his county for a forfeiture of said bond, and any money recovered thereon, after paying the cost of proceedings, shall be covered into the school

fund of the county. Any member of the county board of examiners, who shall accept any money or other thing of value for his vote or influence in selecting text-books, shall, upon conviction, be fined five hundred dollars, and be removed from office; and any person or company who shall give, or offer to give, such reward, shall, upon conviction, be fined five hundred dollars.

SEC. 62. [**Bond Required of Publishers; Other Conditions as to Adoption.**].—Whenever any publisher or person selling text books, who desires to have his text-book adopted in the common schools in any county in this State, shall file in the office of the Superintendent of Public Instruction a sample copy of each of the text-books intended for adoption, together with the lowest retail list price at which the same shall be sold to the patrons and pupils of any county in which the same may be adopted, and shall execute bond before the *ex officio* members of the State Board of Education in the sum of ten thousand (\$10,000) dollars, with good security resident in this State, it shall be the duty of said *ex officio* members of the said Board of Education to accept and file said bond in the office of the Superintendent of Public Instruction: *Provided, however,* That it shall be distinctly set forth in said bond that the text-books of said publisher or person selling the same shall be sold to the patrons and pupils of the common schools of any county in which the same may be adopted at a special retail list price, which shall not exceed the lowest wholesale or the lowest retail list price then or that may thereafter be fixed by said publisher or person selling the same for the sale of such text-books in any State or section of the country, and that said special retail list price shall not, at any time, exceed the price fixed and filed in the office of the Superintendent of Public Instruction, which shall be set forth in said bond; and the said publisher or person selling such text-book shall further agree and contract to make such arrangement with local dealers or agents to sell such text-books in sufficient quantities to supply the patrons and pupils of the common schools of any county in which the same may be adopted at the special retail list price herein provided for: *And provided further,* That the said text-books shall be sent direct with

postage or expressage, as the case may be, prepaid to any patron or pupil of the common schools of any county in which the same may be adopted for use, upon receipt in cash of the said special retail list price of such text-books, and that such patrons and pupils shall have the option of the benefit of any revision or new edition of any of said text-books; and that said text-books shall be equal in paper, binding, typography and in every other respect to the sample copies on file in the office of the Superintendent of Public Instruction. Within ten days after the acceptance and filing in his office the bond herein provided for, the Superintendent of Public Instruction shall forward a certified copy thereof to each county superintendent in the State. Within six months after this act takes effect all publishers or persons selling text-books whose text-books have heretofore been adopted for use in the common schools of any county in the State, shall file a sample copy of each text-book so adopted, together with the lowest wholesale and the lowest retail list price fixed by said publisher or person for the sale of such text-book in any State or section of the country, and the lowest special retail list price at which the same shall be sold to the patrons and pupils of the common schools of any county in this State in which the same are or may hereafter be adopted, and shall execute before the *ex officio* members of the State Board of Education the bond herein required, and shall after said six months after this act takes effect sell said books at said price to pupils and patrons, and in every other respect shall comply with the provisions of this act. Upon the failure or refusal of any such publisher or person to comply with the provisions of this act within the time herein specified, the text-books of such publisher or person selling the same shall be removed from the common schools of any and every county by the county board thereof in which the same have been adopted, and in such case new text-books shall be adopted as herein provided from the list of text-books of publishers or persons selling them who have filed with the Superintendent of Public Instruction the bond herein required.

SEC. .[Duties of State and County Boards as to Questions, Examinations, Certificates.]—County certificates shall

be granted by the county board of examiners to persons not under eighteen years of age, upon written examinations upon the science and art of teaching, and upon the subjects embraced in the common school course, including, in connection with physiology and hygiene, the effects of alcoholic drinks and narcotics upon the human system, held in each county of the State, for white teachers, upon the first Friday and Saturday in June, July, August, September and November of each year, and for colored teachers upon the second Friday and Saturday of the same months ; and no examination shall be held at any other time whatever. No certificate shall be issued upon the days of examination ; nor shall any answers be passed upon in the presence of any applicant. The State Board of Examiners shall carefully prepare five series of questions for white teachers, and an equal number for colored teachers, all of the same grade ; shall inclose the questions upon each subject in a separate envelope, with the name of the subject plainly written or printed across the seal thereof ; shall inclose the several envelopes in a package, which they shall seal and forward by registered mail to each county superintendent at least two weeks before the examination, designating the month for which the same shall be used. The county superintendent shall carefully preserve the said package of questions under seal until the hour of examination ; and the seal of the said package shall then be examined by the other examiners and the applicants for certificates, and the package shall be opened in their presence. The examiners shall allot a reasonable time for the examination upon each subject, taking the subjects in the order named in the section specifying the subjects embraced in the common school course, and shall collect the answers of all the applicants when the time allotted has expired ; and, after the first subject is presented to the applicants, the said examiners shall not present any other subject, or open the envelope thereof, until they collect the answers of all applicants to all questions previously presented. The said examiners shall not examine any applicant until they are fully satisfied that said applicant possesses an unexceptionable moral character, and is of the age herein prescribed ; and, in no event, shall a certificate be granted to any person who indulges in

drunkenness, profanity, gambling or licentiousness. They shall, during the examination, exclude from the room all persons other than applicants, see that the applicants are seated at a proper distance from each other, and shall take care to see that no assistance is given or obtained by any applicant during the examination, and shall refuse to grant a certificate to any applicant who may either obtain or give such assistance. The county superintendent, and at least one of the examiners, shall be present, and shall conduct all examinations and sign all certificates.

SEC. 64. [When Unlawful to Grant Certificate; Fraudulent Use of Questions; Penalties.]—Any county superintendent or county examiner who shall knowingly grant to any immoral person, or to any person under the prescribed age, a certificate to teach in the common schools; or any person who shall unlawfully obtain, or attempt to obtain, or shall sell, barter or give away, or attempt to sell, barter or give away, to an applicant or applicants for a certificate or certificates, or to any other person, any question or questions prepared or sent out by the State Board of Examiners for the examination of a person or persons applying for a certificate or certificates, or in any way dispose of such question or questions contrary to law, or any regulations prescribed by the State Board of Examiners, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty and not more than one hundred dollars for each offense. The county board of examiners shall charge each applicant a fee of one dollar for each examination made, the proceeds of which shall be divided between the two members of the board appointed by and acting with the county superintendents in proportion to the services rendered by them.

ARTICLE VII. DISTRICTS.

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| <p>§ 65. Districts shall be retained until altered or abolished according to law; when change in boundary may be effected.</p> <p>66. Maximum and minimum of school population in districts; legal area of districts; each school-house to be centrally located.</p> <p>67. Number and boundary of each district shall be duly recorded.</p> <p>68. When County Superintendents may lay off a district composed of parts of two counties; how district to be reported and drawn for.</p> | <p>§ 69. Privileges of pupil children in adjoining districts; tuition fees to be paid to Teacher where taught.</p> <p>70. Provisions as to a city, town or village, establishing and maintaining a system of common schools.</p> <p>• 71. This act not to affect any local or special law establishing any city or town in one district, or charter and amendments of any city or town so far as relate to their public schools, or to affect any local or special laws now in force relating to any institution of learning.</p> |
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SEC. 65. [**Change of Boundary—On What Conditions.**]—The school districts of the several counties, as at present described and numbered, shall be retained until altered or abolished pursuant to this chapter; but no two districts in the same county shall be known by the same name or number. No change in the boundary of any district shall be made to take effect during the current or the following school-year, unless made previous to taking the census for such school-year. Nor shall the boundary of any district be changed unless ten days' notice in writing shall be first given to the trustees of other districts to be affected thereby.

SEC. 66. [**School Population ; Area ; Location of School-house.**]—In order that all districts may, as soon as practicable, be made to contain not less than forty-five pupil children, each county superintendent shall, from year to year, as far as practicable, and in accordance with the best educational results, equalize in school population the districts of his county. No district hereafter established shall include less than forty-five pupil children, except in cases of extreme emergency. [No] district shall include more than one hundred pupil children unless it contains a city, town or village within its limits, or there be established therein a high school, academy or college entitled to a share of the revenue of the common school fund, by virtue of a special charter, or of a contract between the trustees of the common school district, and the trustees or other legal authorities of such institution. In all such cases the teacher or teachers of such high school, academy or college having charge of the common school pupils shall hold certificates, and be subject to all the provisions of the common school laws. Such contract shall expressly provide that all children of pupil age residing within the district shall have the privilege of attending the said high school, academy or college for at least five months during the school-year without payment of the tuition fees; but nothing in this chapter shall be construed to authorize any white person to attend a common school or other institution of learning established for colored children, or any colored person to attend a common school or other institution of learning established for white children. In all cases where the number of children shall exceed one hundred, or fall below forty-five, the

county superintendent shall report the reason thereof to the Superintendent of Public Instruction. The area of no school district shall be more than sixteen square miles, unless it is necessary to enlarge the same so as to include the minimum number of children. Each school-house hereafter erected shall be located as near the center of the district as practicable.

SEC. 67. [**Record of Each District.**].—The county superintendent shall, in a book to be kept in his office for that purpose, and subject to public inspection, describe each district in his county by its number and boundary, and shall furnish to the trustees of each district a description of the boundary thereof.

SEC. 68. [**When District Composed of Parts of Adjoining Counties.**].—The county superintendents of two adjoining counties, where the division line intersects a neighborhood whose convenience requires it, may lay off a district composed of parts of both counties. Such district shall be reported, together with its census of pupil children, only as belonging to the county in which the school-house of the same may be situated, by the county superintendent of said county; and he shall make report and draw for the whole district as though it lay entirely within his county. But any county superintendent may reclaim the fractional part of his county lying in the district or districts of another county, after thirty days' written notice to the county superintendent of the said county, provided a school-house has not been built in such district or districts, and the reclaiming of such fractional district or districts would not necessitate the abandonment of such districts.

SEC. 69. [**Privileges of Adjoining Districts.**].—When two school districts adjoin, it shall be lawful for the children of either of such adjoining districts to be taught in and at such school-houses as may be most convenient to them; but in such case their *per capita* or tuition fees shall be paid over to the district in which they are taught, if required by the trustees thereof: *Provided*, The transfer does not shorten the term of the school of the district from which the transfer has been made, and does not interfere with the contract between the teacher and the trustees of either district; and that no such change shall be made without the assent of the trustees of both said districts in writing, and of the parents of the children transferred. In case of an agreement of the kind provided for in this section, the trustees of the district in which the children

were reported shall, before the close of the first month of the school term, notify the county superintendent in writing, or the said transfer shall be void: *Provided further*, That when the district to which transfer is made is in a different county, the county superintendent of the county from which the transfer is made shall pay to the county superintendent of the county in which the children are taught the money due for teaching them, taking his receipt in duplicate

SEC. 70. [**Privileges of a City, Town or Village.**].—When a city, town or village establishes and maintains a system of common schools adequate to the teaching of all the children therein, and which all applying for instruction are permitted to attend free of charge, the same shall be deemed one district, and entitled to its proportion of the school fund. At the termination of each school-year the trustees, or other officers deputed for that purpose, of each school district, and of each separate school of such city, town or village, shall report to the county superintendent the facts required of district trustees in section eighty-six of this chapter. They shall take the census of such city, town or village by wards or school districts, and make a return to the county superintendent, to be filed in his office, at the same time and in the same manner as that required of district trustees. They shall file a duplicate of said census with the county clerk, to be retained by him in his office. For any failure, neglect, or violation of their duties as set forth in this section the trustees or other officers of such city, town or district shall be subject to the same penalties as imposed on district trustees.

SEC. 71. [**Local or Special Laws Not Affected by this Act, Except as in §§ 118 and 119.**].—This law is not to affect, modify or repeal any local or special law heretofore passed, which establishes any city or town in one district, except as provided in sections 118 and 119; but the same shall be governed in all respects by the local laws and authorities, and it shall in nowise affect the charter and amendments thereto of any city or town in the Commonwealth, so far as said charter and amendments relate to the public schools of said cities and towns; nor shall this law affect, modify or repeal any local or special laws now in force for the benefit of any school, high school, seminary, college, or other institution of learning in this State, except as to teachers, as provided in section 63 of this chapter.

VIII. DISTRICT TRUSTEES.

- § 72. Authority, number, qualifications, election and term of Trustees; place, time, and notice of election; qualified voters; Judge of Election; decision in case of a tie; quorum of Board; Chairman and his duties; penalty in case of neglect or non-performance of duties.
73. Penalty for fraud on the part of the Judge of the Election, or of any person in regard to the records of the election of a Trustee.
74. Vacancy in office of Trustee to be supplied by County Superintendent; Trustee appointed, to hold office until successor elected and qualified.
75. Trustees, body-politic and corporate, name; may take, hold and dispose of property, etc., for their common school.
76. Shall keep a record-book, open at all times to public inspection; facts for careful record.
77. Provisions for procuring site and erecting a school-house with proper out-buildings and inclosures, making repairs and providing furniture and apparatus; recovery for damages done property; right and result of petition and of appeal to County Superintendent; title to lot shall vest in Trustees and their successors; location of school-house; provisions for roads or pass-ways to school-house.
78. When school-house condemned and needs repairing, or when necessary to purchase a site and build a new one, shall order taxes to be assessed; character and application of taxes; substitutes for capitation tax; character and lowest value of school-house—plans and specifications for; tax how collected and paid out; penalty against Trustees for failure.
79. Levying and collecting district taxes; appointment of Treasurer; collection of delinquent list; collection of railroad tax.
80. Poll or capitation tax for fuel and other incidental expenses of school, and how may be collected; how said tax may be discharged.
81. Shall employ a qualified Teacher, agree with him as to compensation, and for good cause may remove him subject to approval of County Superintendent; contract not valid unless duly signed; condition on which any school must be taught in district school-house.
82. Duty of Trustees for two weeks before school to parents of pupil-children; duty concerning text-books; duty during progress of school concerning non-attendance of pupils.
- § 83. Duty of Board of Trustees to meet at school-house on day of opening school and thereat, at least once a month during session of school; what shall be considered at each meeting; on complaint of Teacher in writing, Trustees shall have power, after investigation, to suspend or expel a pupil from school.
84. School to be guarded against any infectious or contagious disease.
85. Duty, annually, to take an exact census of all pupil-children then residing in the district; list must be reported to County Superintendent and County Clerk; penalty for fraudulently listing names; penalty for not making report in due time and manner; no pupil-children reported in any other district to be listed, but any pupil-child not reported in the district in which he resides, may attend the common school without payment.
86. At the termination of the school-year shall report required school statistics to County Superintendent, and any other information required touching the school.
87. The reports required of the Chairman must be signed by him; penalty for failure to make any report within thirty days after the same is required by law.
88. No Trustee allowed to buy any Teacher's claim, directly or indirectly, under penalty of removal from office; any Trustee who should accept or agree to accept any compensation, directly or indirectly, for employing or hiring a Teacher shall, upon indictment and conviction thereof, be fined.
89. For any neglect of duty or misfeasance in office, the Trustee shall, in addition to being fined, be removed from office by the County Superintendent.
90. Chairman of the Board in consideration of his services, shall be exempt from certain other specified duties.
91. Any person, elected or appointed Trustee, who shall willfully fail or neglect, after having accepted said office, to perform the duties imposed upon him herein, shall be fined therefor.
92. Money, property, books or papers in custody of a Trustee, must be delivered to successor; penalty for failure.

SEC. 72. [**District Trustees—Authority, Number, Qualifications, Election—Chairman of Board.**]
—Each school district shall be under the control of three trustees, who shall be of good moral character, at least twenty-one years of age, and for white schools, able to read and write, and for colored schools, able to read and write, if practicable, one of whom shall be elected each year, for the term of three years, to fill the place of the trustee going out of office. No person holding the office of trustee of any private school shall be eligible to hold the office of trustee of any common school. The vote in electing a trustee shall be taken *viva voce*, and the election shall be held at the school-house, and if no school-house be in the district, at such convenient place as the trustees may select, from one o'clock till six o'clock in the afternoon on the first Saturday of June each year, notice thereof having been posted by the trustees at three of the most public places in the district for ten days immediately preceding the day of election. At this election the qualified voters of the district shall be the electors; and any widow having a child between six and twenty years of age, and any widow or spinster having a ward between the ages of six and twenty years may also vote. The officers of the election shall be a judge and a clerk, who shall be residents of the district, and be chosen by the voters at the opening of the polls. The judge of election shall give the casting vote in case of a tie, provided he has not heretofore voted, and give a certificate of election to the person elected, signed by himself, and report the trustees thus elected, in writing, to the county superintendent of the county within five days after the day of election. In case of a tie, in which the judge has voted, then he shall certify the fact to the county superintendent, and the county superintendent shall appoint the trustee, and give him a certificate, and the trustee so selected shall act until his successor is duly qualified. The trustee so elected shall hold office for three years, from the first day of July succeeding his election, and until his successor is duly elected or appointed and qualified. Any two of the trustees may constitute a quorum to transact the business pertaining to their office, at a meeting of which all shall have had reasonable notice. The trustee having the shortest time to serve shall be chairman of the board of trus-

tees, whose duty it shall be to preside at all its meetings, and to make the reports, and to perform all other such acts and duties as required by law of trustees; and in case of neglect or non-performance of duty, the one so remiss of duty shall be subject to like fines and penalties as imposed by law on trustees for neglect of duty or other violations of law. This law shall in nowise impair the tenure of office of trustees who have been duly elected or appointed under the present school law.

SEC. 73. [**Penalty for Fraud at Election.**].—Any person who may be chosen to preside over the election of a school trustee in any school district in this Commonwealth who shall knowingly, and with intent to commit a fraud, receive and count any illegal vote or issue a certificate of election to any person not entitled thereto, or shall refuse to issue such certificate to any one duly elected, or who shall fail for five days after the election to report the name of the person elected, or who shall, with fraudulent intent, deface, mutilate or destroy the records of any such election, shall be fined not less than fifty nor more than two hundred dollars for every such offense, and it shall be the duty of the county superintendent to report such offenses to the grand jury.

SEC. 74. [**Vacancy, How Supplied.**].—If, from a failure to qualify according to law, or from any other cause, there be a vacancy in the office of trustee, the county superintendent of the county shall, within ten days, or as soon thereafter as practicable, supply the same by his appointment, in writing, and the trustee so appointed shall hold his office until the end of that term,* and until his successor is elected or appointed and qualified. In case of controverted right to the office of trustee, the county superintendent is empowered to recognize a trustee among the contestants until the dispute has been settled. If a trustee-elect shall fail to qualify before the county superintendent on or before the fourth Saturday in June following his election, or file with him a certificate that he has qualified before another officer, it shall be within the discretion of the county superintendent to declare his place vacant, and to fill same by appointment.

*This is in conflict with section 152 of the Constitution. Section 58 of this law was amended to make it conform to that provision, but section 74, above, was overlooked. County superintendents will be governed, in the matter of appointments, by the constitutional provision, as indicated, in section 58, page 29.

SEC. 75 [**Body-Politic and Corporate—Name and Powers.**].—They and their successors shall be a body-politic and corporate with perpetual succession, by the name of the trustees for their school district; and as such may sue and be sued, take, hold and dispose of real and personal estate for the maintenance, use and benefit of the common school of their district, and receive and enforce payments of subscriptions for the like purpose. Their private seals or scrolls shall stand in lieu of a corporate seal. In the acquisition of land as a site for a school-house, the title thereof shall be made in fee-simple to the trustees, and the titles to lands now used as sites for school-houses shall, at the earliest possible time, be perfected by the trustees and the county superintendent. Any revisionary [reversionary] interest in any land now used as a site for a school-house shall not deprive the districts of the school-house or other improvements thereon.

SEC. 76. [**Record-Book--Open to Public Inspection--Facts for Careful Record.**].—The Superintendent of Public Instruction shall, from time to time, as needed, through the county superintendents, furnish the chairman of each board of trustees with a trustee's record-book, which shall be the property of the State, shall be well preserved, shall be open at all times to public inspection, especially by the trustees and county superintendent, and at the expiration of the chairman's term shall be turned over to his successor. The chairman of each board of trustees shall receipt to the county superintendent for the record-book, which receipt shall be filed with the Superintendent of Public Instruction. In the said book the chairman of the board of trustees shall, with pen and ink, keep a careful record of the following facts: The name, number and boundary of the district; names of the trustees, and when each elected or appointed and qualified; the time for which each shall serve; each annual census as reported to the county superintendent; and changes of boundary of the district; the dates and number of visits of the trustees to the school; a copy of the contract with the teacher, and the grade of his certificate; each district election, with the time and purpose and names of its officers; each meeting of the trustees, with the purpose thereof, and the business transacted; the beginning and close the school term, with the holidays and vacations therein; the money received, with the sources

thereof, and for what the same has been disbursed ; each levy of a tax, if any, and such other facts as the county superintendent or Superintendent of Public Instruction may require.

SEC. 77. [**Securing Site, Erecting and Locating School-house, etc.**].—The trustees, with the consent of the county superintendent, may take land, by purchase or donation, for the purpose of erecting thereon a school-house, provide for and secure the erection of the same, construct such out-buildings and inclosures as shall be conducive to the protection of the property and the comfort and decency of the pupils and teachers ; make repairs and provide the necessary furniture and apparatus ; but the said trustees shall not buy for such use property in which they are either directly or indirectly interested. They shall have power to recover for any damages that may be done the property in their charge, and they may change the location of the school-house, sell or dispose of the old site, and use the proceeds thereof towards procuring a new one. If they can not agree with the owner of any land most suitable for a school-house site as to the price and terms of purchase and sale thereof, they may have the same condemned in the manner provided for condemning lands for the use of railroad companies ; and cause a deed to the land by a commissioner to be made to the trustees and their successors ; which deed shall be duly acknowledged and recorded in the office of the clerk of the county court, and thereupon the fee-simple title to said lot shall vest in said trustees and their successors in office ; but they shall not have the right to condemn any private property which is used by the owner as a residence, garden, orchard or burying-ground. The quantity of land thus condemned shall in no case exceed one acre. A majority of the school electors of any district, within thirty days after the location or site has been selected by the trustees, may appeal from the decision of the trustees in the location of the school-house, or site for the same, to the county superintendent of the county, whose decision in the case shall be final. In such location it shall be made as near as practicable to the center of the district as will be convenient of access to all the inhabitants of the district ; and the trustees shall make provisions for such roads or passways to the school-house as will accommodate all the pupils

who may be entitled to attend, and may apply to the county court having jurisdiction to open the same as other roadways are opened for public necessity and convenience. But where there is no road or passway from the residence of any pupil to the school-house, it shall be lawful for such pupil, in attending school, to walk over the land of any person between the residence of such pupil and the school-house. No toll shall be collected of any pupil child for travel upon any turnpike road while attending a common school.*

SEC. 78. [**When School-house Condemned, etc.—Duty of Trustees—Penalty for Neglect.**]—Whenever the county superintendent notifies the trustees, in writing, that a school-house, or the inclosures thereof, has been condemned, and needs repairing or additions, or that the furniture or apparatus is insufficient or, in any case, it becomes necessary to purchase a site to build a new school-house, then, if there be no funds available for such repairing or purchasing, the trustees shall levy a capitation tax not exceeding one dollar per school-year, for four years, on each male in the district over twenty-one years of age, or an ad valorem tax, not exceeding twenty-five cents on each one hundred dollars' worth of taxable property in the district per school-year, or both a capitation and an ad valorem tax, to be collected as provided in section 79; and such tax shall be applied to the repairing or making additions, or to the purchase of a site, and the erection and furnishing of a school-house adapted to the wants of said district, or to the equipment of the school-house with furniture or illustrative apparatus. In case of an emergency, the trustees of a district may, in their corporate capacity, borrow a sufficient sum of money to repair or erect and furnish a school-house: *Provided*, The sum so borrowed shall not exceed an amount that can be paid off in four years at the rate of taxation set forth in this section: *And provided further*, That in districts in which school-houses have been built, where a three-year tax was levied

* Chapter 259, Acts of Assembly, 1893, section 4.—The managers of any road in which the State (or county) has an interest shall permit ministers of the Gospel to travel on the road without paying toll when on ministerial duty; and shall charge no toll against scholars going to or from school, or against persons who are going to or from their accustomed place of worship; and funeral processions going to and returning from place of burial; but if any other person than scholars going to and returning from school, and the driver, shall occupy a vehicle, full toll shall be charged and collected for such vehicle.

and collected and proved insufficient, and where there is any part of the cost of construction of such school-house, or purchasing site upon which to build, or for school furniture, remaining unpaid, the trustees shall levy an additional tax sufficient to pay off all indebtedness. In all suits arising in the collection of taxes under this chapter, the county attorney shall act as attorney for the trustees, and shall receive for such service such compensation as may be allowed by the fiscal court. The amount collected from said district shall be paid out on the order of the trustees. If the trustees of any common school district fail, for the period of one year after the building of the school-house has been properly ordered, to have a good and sufficient school-house in their district equipped with the furniture and apparatus herein prescribed, each of them shall be guilty of a misdemeanor. The county superintendent shall report such failure to the grand jury at its next meeting, and, upon indictment and conviction, each of said trustees shall be fined not less than twenty-five nor more than one hundred dollars, unless he can show a good and satisfactory reason for such failure. Each school-house, including the site, furniture and apparatus, shall have a property value of not less than one hundred and fifty dollars. Each school-house hereafter erected shall have a floor space of not less than ten square feet to each pupil in the district; shall be at least ten feet between floor and ceiling; shall have at least four windows, one or more fire-places, with chimneys made entirely of brick or stone, or a sufficient number of stoves or other heating apparatus, with safe flues, to warm the room in the coldest weather; one or more doors, with locks and keys, which shall be kept during the vacations by the chairman of the trustees, who shall be liable for any damage occurring on account of neglect. The trustees shall furnish each school-house with at least the following articles of furniture and apparatus, and the teacher shall, at the close of the school of each year, deliver a complete inventory of the said articles to the chairman of the trustees: Teacher's desk and chair; a seat, patent or otherwise, with back, for each child, the height of the seat and its back to suit the age of the child—no desk or bench to be made to accommodate more than two children; writing

desks for all the pupils; blackboard space of at least fifty square feet; water-stand; and the trustees may furnish gong or call-bell; terrestrial globe; wall-map of the world, wall-map of the United States, and a wall county-map of Kentucky, and such charts upon reading, writing, physiology, and so forth, as the trustees may select; and the trustees are authorized to have said houses and furniture insured against damage by fire or other casualty. The expenses incurred from such insurance to be paid out of the funds raised for general district purposes.

SEC. 79. [Levying and Collecting District Taxes.]—Whenever there shall be a tax levied in any common school district, or graded school district, it shall be the duty of the trustees to appoint a district treasurer, who shall hold his office four years and until his successor is appointed and qualified, unless sooner removed by the county superintendent, which he may do for any failure on the part of said treasurer to discharge his duties as required by law. Before the treasurer shall enter upon the discharge of his duties, he shall execute bond, in the name of the Commonwealth of Kentucky, to the board of trustees, in a sum equal to double the amount of taxes to be collected, with one or more sufficient sureties, to be approved by the county judge or a justice of the peace, for the faithful performance of his duties; which bond shall be renewed every year. The tax shall be levied on the property of the district as may be assessed and equalized for county taxation immediately preceding the levy by the trustees; and within ten days after said levy, it shall be the duty of the district treasurer, with the assistance of the county superintendent, to make, or cause to be made from the assessor's book, as equalized for county taxation, and the records of assessments of property as filed by the Railroad Commissioners or board of assessment in the office of the county clerk, a list of the names of all persons or corporations liable for such taxes, and the amount of property owned by each and liable therefor, and the total amount of taxes due from each, and shall file a copy of list with board of trustees. The treasurer shall collect all taxes levied for common school purposes on the property of the district. The holder of the legal title, and the holder of the equitable title, and the claimant or bailee in possession of the property on

the fifteenth day of September of the year the assessment is made, shall be liable for the taxes thereon; but, as between themselves, it shall be the duty of the holder of the equitable title to list the property, and pay the taxes thereon, whether the property be in possession or not at the time of the payment. The board of trustees shall, within five days after such tax list shall have been delivered to the chairman, fix the time in which such taxes shall be paid to the district treasurer, which shall not be less than two nor more than four months from the time of making such order. The board shall cause written or printed notices of the amount of the levy, and the time and place in which the tax is required to be paid, to be posted in at least three public places in the district. It shall be the duty of all tax-payers to pay their taxes to the treasurer at the time and in the place designated in the notice. On failure of any such tax-payer to pay his taxes within such designated period, he shall, at the expiration thereof, be deemed delinquent, and a penalty of five per centum of the amount of the taxes due shall attach against each delinquent at the expiration of the period for receiving the taxes. It shall then be the treasurer's duty to collect such delinquent taxes, and levy on and sell property therefor, and make report thereof to the board of trustees. The treasurer shall collect the taxes within ninety days after receiving the list by sale of property or otherwise. He shall have the same power that the sheriff now has in the collection of State and county revenue, and proceed in the same manner and receive the same compensation as the sheriff was entitled to receive; and for a failure to perform this duty, and other duties mentioned in this section, he shall be liable on his bond; and all such delinquent lists as may now be in the hands of the sheriffs in this Commonwealth uncollected, shall be returned to the district treasurer for collection under this amendment, and such as have been wholly or partly collected by sheriffs shall be accounted for as provided in the original act. The treasurer shall, in his annual report to the trustees and to the county superintendent, make an itemized statement of the amount levied, the purpose of such levy, the itemized amount collected, the amount disbursed, and the amount still on hand. In case of vacancy by resignation or removal, the treas-

urer shall make settlement with, and turn over all moneys to, the county superintendent immediately following such resignation or removal. The treasurer and county superintendents holding money for districts, shall pay out same on order of board of trustees for said districts.

SEC. 80. [**Tax for Incidental Expenses.**].—Unless there are sufficient funds on hand which may be used to pay the contingent expenses incident to conducting the school comfortably, the trustees shall assess, and the treasurer of the district shall collect, a capitation tax of one dollar and fifty cents, or less, on all persons having children attending the common school of the district; the same to be collected as provided in section 79, and used to pay for fuel and other things needful to keep warm, clean and comfortable the house wherein the school is conducted.

SEC. 81. [**Shall Employ and May Remove Teacher.**].—The trustees in their corporate capacity, at a meeting called for that purpose, shall employ a qualified teacher, agree with him as to compensation, and for good cause, of which he be first notified in writing, remove him, subject to the approval of the county superintendent. The contract between the teacher and trustees shall not be entered into before the first of July of the calendar year in which the school is to begin. No teacher shall be employed until after the election and qualification of the new board of trustees. It shall expressly prescribe that its terms are subject to all the provisions of the common school laws, and shall be in writing, signed by the teacher, and at least two of the trustees. Whenever a teacher is entitled to a payment for having taught a common school, it shall be the duty of the trustees of the district to certify that the school has been legally taught for the period specified. No person shall be allowed to teach a private or other school in any district school-house, unless he be of good moral character, and have the consent of not less than two of the trustees of the district in which said school is to be taught.

SEC. 82. [**Shall Visit Parents to Secure Attendance of Children at School.**].—During the two weeks preceding the opening of the school, the trustees shall visit all the parents of pupil-children, and urge upon them the necessity of prompt

and regular attendance at school. They shall make careful inquiry as to whether any children are unable to purchase the necessary books, and immediately report the names of all such children to the county superintendent only. During the progress of the school, the trustees shall ascertain the causes of all non-attendance of children, and shall remove such causes, if practicable.

SEC. 83. [**Regular Duties at the School-house During Session of the School.**].—The board of trustees shall meet at the school-house on the day of the opening of the school, and at the same place at least once a month thereafter during the session of the school. At each meeting they shall carefully examine the teacher's register, and shall consider: (1) The condition of the school-house, furniture, apparatus and surroundings; (2) the work of the school; (3) the attendance, and how to increase it; (4) the needs of the school, such as fuel, brooms, buckets, crayons, desks, blackboards, books, etc. They shall provide for any deficiency that may exist in any of these respects, and see that the regulations for the government of the school are complied with, and that the teacher performs his duty; they shall see that a sufficient supply of good water is furnished within easy access of the school-house for the benefit of the school during the term of school. Upon complaint of the teacher, in writing, the trustees shall have power, after investigation, to suspend a pupil or expel him from school. When the trustees shall ascertain by examining the teacher's register or monthly report that the average daily attendance for twenty consecutive days taught has been less than twenty-five per cent. of the total number of pupil children of the district, as shown by the last census, they shall, with the consent of the county superintendent, dismiss the teacher, and employ another teacher to complete the session of the school, unless they shall be satisfied that the decreased attendance was due to such natural causes as high water, extremely inclement weather, epidemics, or unusual sickness in the district.

SEC. 84. [**Duty in Case of Any Infectious or Contagious Disease.**].—When any family shall have any infectious or contagious disease, no member of such family shall attend any school until the trustees thereof shall allow them to do so; and

during the prevalence in the district of dangerous epidemics the trustees shall order the school closed ; but the teacher shall not be required to lose the time of this forced suspension, unless so stipulated in his contract.

SEC. 85. [**Annual Census—Its Character and Requirements—Penalty for Fraud.**].—It shall be the duty of the trustees of each district, annually, during the month of April, to take an exact census of all the children that reside in such district on the first day of April who will be, on the first day of July following, between the ages of six and twenty years, and on or before the first day of May report a list of the same to the county superintendent, and a duplicate list to the clerk of the county court, to be filed in his office, specifying the name, age, sex and names of the parents or guardians of each child, to be entered in a book furnished him by the State, and kept as part of the records of his office. Should said trustees willfully add to the list the names of persons not entitled to be placed on same, or otherwise knowingly make a false list, such person thus offending shall, in addition to being liable to punishment for the crime of false swearing, be subject to a fine of not less than fifty dollars ; and should any other school officer be a party to such fraudulent lists, or any way aid in the commission of such fraud, he shall be liable to the same punishment. For a failure to take such census and report the same within the time and in the manner herein required, the trustees shall be liable to a fine of not less than twenty dollars ; and said trustees shall not take the census of any children who have recently removed into the district, and who have been previously reported in the census of the pupil children for the year in the district from which they have removed, or who had recently removed into the district from another State or county ; but any pupil child who may not have been reported in the district in which he resides may attend the common school without payment. This section shall be printed in the census blanks furnished by the Superintendent of Public Instruction.

SEC. 86. [**Report School Taught—Annual Report.**].—At the termination of each school-year the trustees shall make a report to the county superintendent, showing, in tables of details and aggregates, the length of time taught, the highest,

lowest and average number of children at school; the cost of tuition of each child for the session and per month; the number of private schools, academies and colleges taught in the district, and length of sessions of the same; the number of teachers employed, male, female and total, for the common schools; the wages of male or female teachers; the amount of money raised for common school purposes in the district by county and district tax or otherwise, and for what the same was disbursed; the kind and value of school-houses, and the number of volumes in district library, if any; and any other information required of them by the county superintendent touching the school.

SEC. 87. [Chairman Shall Sign His Reports—Penalty for Failure to Make Any.]—The chairman of the board of trustees shall sign all reports made by him; and, for a failure to make any such report within thirty days after the same is required by law, shall be subject to a fine of twenty dollars, and, besides, shall be liable to an action for damages by any person injured thereby.

SEC. 88. [Penalty for Buying Teacher's Claim and for Fraud in Employing Teachers.]—No trustee shall be allowed to buy any teacher's claim, directly or indirectly, under the penalty of removal from office by the county superintendent. Any teacher who shall offer or give, directly or indirectly, and any trustee who shall ask or accept, directly or indirectly, either for himself, for another trustee, for the district, the school or the school-house, any valuable consideration other than the services of the teacher for employing, or for being a party to employing any teacher, shall be deemed guilty of bribery, and upon indictment and conviction thereof, shall be fined as provided by law for the punishment of bribery.

SEC. 89. [Penalty for Neglect of Duty or for Misfeasance in Office.]—For any neglect of duty or misfeasance or malfeasance in office, the trustees shall, in addition to being fined as aforesaid, be removed from office by the county superintendent, who, in investigating such matters, as well as the matters set out in sections 55, 133, 136, shall have the same power to issue subpoenas and attachments for witnesses, and to compel their attendance and testimony, as is possessed by the judge of the

quarterly court in examining trials of persons charged with offenses against the law ; and sheriffs, constables and marshals shall be under the same obligations and subject to the same penalties for neglect or refusal to execute the orders of said superintendent as for refusal or neglect to execute the orders of the judge of the quarterly court of the county, and from the decision of the county superintendent any party aggrieved may appeal to the Superintendent of Public Instruction.

SEC. 90. [**For Services, Chairman Exempt from Certain Duties.**]—The chairman of the board of trustees, in consideration of his services, shall be exempt from duty as overseer or a hand upon a public highway, and from militia duty.

SEC. 91. [**Penalty for Willful Failure or Neglect.**]—If any person who is elected or appointed trustee of a common school under the provisions of this act, shall willfully fail or neglect, after having accepted said office, to perform the duties imposed upon him herein, he shall be fined fifty dollars therefor.

SEC. 92. [**Duty to Successor.**]—A trustee, when he resigns, vacates, is removed, or goes out of office, shall, within ten days thereafter, deliver to his successor any money, property, books or papers in his custody as trustee ; and for failure therein, he may be fined any sum not exceeding fifty dollars ; and it shall be the duty of the county superintendent to report all such defaults to the grand jury.

IX. DISTRICT TAXATION.

§ 93. Levy of district tax in aid of common schools, contingent upon the will of the people.

94. How will of the people determined; qualified voters; notices of tax, stating amount and object of tax, and time and place of voting, shall be duly posted ; when district lines pass through the lands of one person, where taxes shall be levied and paid.

95. Question of local taxation may be submitted at any time once a year, after notices duly posted ; when amount, object and length of time clearly and distinctly stated, tax may be voted for three successive years.

§ 96. Duties of officers of election prescribed ; in case majority of voters in favor of tax, duty of County Superintendent and of Treasurer.

97. Assessment, collection, etc., governed by § 79.

98. In his annual report to the Superintendent of Public Instruction, the County Superintendent shall make report of amount of money thus raised and how appropriated.

99. A tax under the foregoing sections, shall not exceed, in any one year, twenty-five cents on the hundred dollars' worth of taxable property in the district, and one dollar on each poll.

SEC. 93. [**District Tax—Levy of, When Lawful.**]—If any common school district in the State, in which the clearly ascer-

tained will of the people shall be in favor of a district tax in aid of the common school therein, the levying of such a tax therein shall be lawful.

SEC. 94. [**How Will of the People Determined.**].—The will of the people of any district in relation to such a tax therein shall be determined by a vote of the qualified voters thereof at the time and place and in the manner prescribed in section 72 of this chapter for the election of district trustees; and any widow or spinster residing in any school district, who is a taxpayer, or who has children within the ages fixed by the common school laws to be educated, shall be deemed a qualified voter under this chapter. But previously to the taking of such a vote, printed notices, signed by the county school superintendent of the county in which such district lies, and by a majority of the trustees of such district, stating the amount and object of the tax proposed to be raised, and the time and place of taking the vote, shall have been posted by the chairman for fifteen days, at three or more prominent places in the district; and when lines dividing school districts pass through the lands of any person, dividing the same, the taxes shall be levied and paid to the district where the homestead may be situated.

SEC. 95. [**Local Taxation—When and How Submitted.**].—The question of district taxation may be submitted to the legal voters of the district every school-year; but when the amount, object and length of time are distinctly stated to the voters, the tax may be voted at one election, to continue three successive years. The proceeds of such tax shall be expended for any of the objects herein specified, and for no other object. The extension of the common school for a longer term, the better payment of the teacher thereof.

SEC. 96. [**Duties of Officers of the Election, etc.**].—It shall be the duty of the officers holding the election to open the poll, and an officer of the election shall propound to each voter who votes, the question: "Are you in favor of the district school tax?" and his vote shall be recorded for or against said tax as he directs. The officers of the election shall return a fair and true record of the votes taken for and against such tax, certified and sworn to by themselves, before some officer authorized

to administer oaths, to the county school superintendent ; and if it be found that a majority of those voting shall have voted in favor of such district tax, it shall be the duty of the county superintendent to furnish the district treasurer with the boundary of the district, and said treasurer shall collect said district tax.

SEC. 97. [**Assessment, etc., How Governed.**].—The assessment of property, the collection of taxes, the powers and duties of trustees and other officers under this article, shall be governed by section seventy-nine of this chapter.

SEC. 98. [**Report by County Superintendent.**].—The county superintendent shall, in making his annual report to the Superintendent of Public Instruction of the schools taught in his county, make report also of the amount of money thus raised, and the manner in which it has been appropriated.

SEC. 99. [**Limit of Tax in any one Year.**].—The tax allowed under the foregoing sections shall not exceed twenty-five cents in any one year on the one hundred dollars' worth of taxable property in the district, and one dollar on each white male person twenty-one years of age or over, and the provisions of section [79] shall apply to any tax imposed under this article.

X. GRADED COMMON SCHOOLS.

§ 100. Conditions on which a graded free school district may be formed and a graded free school established. Duties of County Judge.

101. Duty of County Court Clerk to give within ten days, to Sheriff a certified copy of order when made by County Judge.

102. When duty of Sheriff, or other officer who may hold election, to publish, advertise, and post notices of election.

103. Question proposed to each voter who votes; votes shall be duly recorded.

104. If a majority of the legal white voters entitled to vote, cast their votes in favor of said tax, it shall be the duty of the County Judge, with the assistance of the County Superintendent of Common Schools, to organize a graded free school.

105. Each graded free school district

when organized, is incorporated and under a Board of six Trustees, elected at the same time and place, and by the same persons who vote the tax.

§ 106. Style, province, and powers of the Board of Trustees; title to all property of graded free schools vests in said Board and their successors in office.

107. Classification of Trustees by lot; respective terms of office; successors shall be elected at the same time and for the same term as Trustees of common schools; vacancy, how filled and for what term.

108. Trustees, before entering on the discharge of their duties, shall take oath of office.

109. Trustees may adopt proper by-laws and rules for the control, government, and management of the graded free school, and shall keep a journal of their proceed-

X. GRADED COMMON SCHOOLS—Continued.

- ings subject to inspection by any citizen of the district.
- § 110. Appointment, employment, compensation, examination, and qualifications of Teachers; course of study.
111. Secretary of city Board must report to Superintendent of Public Instruction.
112. Board of Trustees shall elect a President and Secretary and prescribe their duties; reports and publication required annually.
113. Free tuition to resident white pupil-children.
114. Terms of admission to other persons than resident pupil-children.
115. Board of Trustees shall have power to appoint a Treasurer, who shall duly execute bond with sufficient securities; duties and responsibilities of Treasurer.
116. The County Superintendent of Common Schools shall annually and promptly pay to the Treasurer of any graded free school district, duly organized and operating in his county, the pro rata of the State and the county funds due said district.
117. Board of Trustees shall provide funds for purchasing suitable grounds and buildings and other needful expenses for conducting a good graded free school; issuance of bonds—limitation in amount and time, denomination, interest of, and management, how sold and applied.
118. Levy of annual tax on taxable property and levy of capitation tax—provision for Sinking Fund.
119. Assessment, collection, etc., to be governed by § 79.
- § 120. Title to all common school property within graded free school district duly organized, and power to sell and convey same, vested in the Board of Trustees.
121. After first election and organization of graded free school, Board of Trustees shall appoint officers of elections, their responsibilities, penalties, and powers.
122. When proposition to establish school fails, a vote may be had again in two years.
123. Provisions of this act shall apply to such graded free school districts as may be organized by the colored people of this Commonwealth.
124. Provisions as to cities of fifth and sixth classes, and school, organized by special act.
125. Provisions as to first, second, third, and fourth class cities.
126. Tax to complete school buildings and pay debt contracted under old Constitution.
127. Interest on bonds not to exceed 6 per cent. Bonds must be issued by majority of the Trustees—payable in amounts and at times and places determined by them.
128. How assessment and collection are to be governed.
129. Tax to pay bonds and interest levied on second Monday in May annually.
130. Bonds must be signed by the Chairman of Board, and countersigned by Secretary. Treasurer must settle on first Monday in January, each year, or may be required to do so quarterly.

SEC. 100. [Conditions for Establishing a Graded Free School District and School.]—It shall be the duty of the county judge in each county of this Commonwealth, upon a written petition, signed by at least ten legal voters, who are tax-payers in the justice's district, town or city of the fifth or sixth classes in his county, to make an order on his order-book at the next regular term of his court after he receives said petition, fixing the boundary of any proposed graded common school district, as agreed on by the county judge and the petitioners, and directing the sheriff, or other officer whose duty it may be to hold the election,

to open a poll in said proposed graded common school district at the next regular State, town or city election to be held therein, or on any other day fixed by said judge in said order, not in either case earlier than forty days from the date of said order, for the purpose of taking the sense of the legal white voters in said proposed graded common school district upon the proposition whether or not they will vote an annual tax, in any sum named in said order, not exceeding fifty (50) cents on each one hundred dollars (\$100) of property assessed in said proposed graded common school district, town or city, belonging to said white voters, or a poll-tax in any sum named in said order not exceeding one dollar and fifty cents (\$1.50) *per capita* on each white male inhabitant over twenty-one (21) years of age residing in said proposed graded common school district, or both an ad valorem and a poll-tax, if so stated in the said order, for the purpose of maintaining a graded common school in said proposed graded common school district, and for erecting, purchasing or repairing suitable buildings therefor if necessary: *Provided*, That the proposition to establish any graded common school district and school, as provided for in this section, is approved in writing on the petition to the county judge by a majority of the trustees of any common school district, included wholly or partly within the boundary of said proposed graded common school district, and approved in writing on said petition by the county superintendent of common schools; that no point on the boundary of any proposed graded common school district be more than two and one-half miles from the site of its proposed school-house, and that the location and site of said school-house in said district are set out with exactness in said petition to the county judge.

SEC. 101. [**Duty of County Clerk.**].—It shall be the duty of the county court clerk to give to said sheriff or other officer a certified copy of the order of the judge of the county court, as it appears in his order-book, within ten days after said order is made.

SEC. 102. [**Duties of Sheriff or of other Officer Who May Hold Election.**].—It shall be the duty of said sheriff or other officer to have the order of the county judge published in some weekly or daily newspaper published in the county for at least

twenty days before the election, and also to advertise the same by printed or written handbills, posted at five conspicuous places in said proposed graded common school district, for the same length of time; but if there be no daily or weekly newspaper published in the county, the printed or written handbills, posted as before provided, shall be sufficient notice. The said sheriff or other officer shall have the advertisement inserted, and notices herein provided for posted, within ten days after he receives the order of the county judge, and at least twenty days before the election.

SEC. 103. [**Manner and Object of the Election.**].—The said sheriff or other officer shall appoint a judge and a clerk of the said election, who shall take and subscribe to an oath for the faithful performance of his duties. On the day set apart for the election, the officers shall open a poll, and shall propound to each voter who may vote the question: "Are you for or against the graded common school tax?" and his vote shall be recorded for or against the same as he may direct.

SEC. 104. [**If Tax Voted, Duty of County Judge, County Superintendent and Trustees.**].—If it shall appear that a majority of the votes cast at the said election were in favor of said tax, then it shall be the duty of the county judge to cause the certificate of the examining board showing the amount of tax voted, and the names of the six trustees elected, to be entered of record in the order-book of his court, and to give a copy thereof to the county superintendent, who, in connection with the trustees, shall organize a graded common school in said district in accordance with the provisions of this law.

SEC. 105. [**Board of Trustees.**].—The graded common school districts, when organized as aforesaid, are hereby incorporated, and each of them shall be under the management and control of a board of six trustees. The first board to be elected at the same time and place, and by the same persons who vote at the election for the tax, as provided in sections 95 and 98 of this law; and the six persons receiving the highest number of votes cast shall be declared elected trustees.

SEC. 106. [**Style, Province and Powers of Board of Trustees.**].—The persons so elected shall be named and styled "The Board of Trustees of the ——— Graded Common School

District," and in that name may sue and be sued, contract and be contracted with, and as a natural person may acquire, hold, dispose of and convey, by purchase, gift, device or otherwise, any real or personal estate, goods and chattels, necessary and convenient for the uses and purposes of such graded common school; and the title to all such property shall vest in said board of trustees and their successors in office, to be held sacred for the use and benefit of said graded common school district.

SEC. 107. [**Classification of Trustees—Regular Election of—Vacancy, How Filled.**].—The trustees thus elected shall be divided by lots into three classes, to hold their offices for one, two and three years respectively, or until their successors are elected and qualified; the two trustees selected for the shortest term to retire from office on the second Saturday in May following their election; and the two selected for the second shortest term, and the two selected for the longest term, shall serve one year and two years respectively after the second Saturday in May following their election. On the first Saturday in May following the first election of trustees under this act, and the first Saturday in May of each year thereafter, there shall be elected as trustees of common schools are elected two trustees of the said graded common school district, who shall qualify on the second Saturday of the month of their election, to succeed the two trustees retiring from office, and to serve three years, and until their successors are elected and qualified. If, at any time, there should be a vacancy in said board, the same shall be filled by election by the remaining members, and the person elected to fill such vacancy shall hold his office until the next regular election, when his successor shall be elected to fill out the unexpired term.

SEC. 108. [**Official Oath Required of Trustees.**].—Said trustees, before entering upon the discharge of their duties, shall each take an oath faithfully to perform the duties required of them under this law.

SEC. 109. [**By-laws and Rules—Journal of Proceedings.**].—Said trustees may adopt such by-laws and rules for the government of themselves and their appointees, and for the control, government and management of graded common schools in their respective districts, as they may deem necessary, not in conflict

with law, and shall keep a journal of their proceedings, which shall be open at all times to the inspection of any citizen of the graded common school district in which he or she may reside.

SEC. 110. [**Appointment and Qualifications of Teachers—Course of Study.**].—Said trustees shall appoint and employ a principal and all teachers, and fix their compensation, and may suspend or dismiss them, or any other person appointed or employed by them; may prescribe the branches (other than those required by law to be taught in the common schools) which may be taught in said graded common schools, and prescribe the necessary qualifications, and the mode of examination of applicants for positions as superintendent, principals or teachers in said graded common schools; but no person shall be appointed or employed as superintendent, principal or teacher in any graded common school organized under the provisions of this law who is not a person of good moral character, and who has not a county certificate, as required by the common school law of Kentucky. Each teacher in a graded common school, except in cities of the first, second, third and fourth classes, shall be required to keep a register as prescribed in section 111 * for teachers of other common schools, which register shall be left with the president of the board of trustees, who shall be responsible for it, and return it to the teacher at the opening of the next school term. From the registers in the hands of the several teachers in the graded common school, and the record kept by the board of trustees, the principal teacher and the president of the board of trustees shall, within ten days after the close of the school, make a report to the county superintendent, being provided with blanks therefor by the superintendent; said report to give such information as is specified in section 86 of this law.

SEC. 111. [**Secretary of City School Board Must Report.**]. It shall be the duty of each secretary of the board of trustees of schools, maintained wholly or in part by the State, in cities of the first, second, third and fourth classes, to report annually, on or before the first of September, to the Superintendent of Public Instruction, such facts as will enable him, in his reports to the General Assembly, to give the important school statistics

* Error in original bill; it should be section 134.

of such cities in connection with those of the county in which they are situated. The secretary shall be supplied by the Superintendent of Public Instruction with blanks therefor.

SEC. 112. [**President and Secretary of Board.**]*—*The said trustees shall elect one of their number president, who shall preside at their meetings, and perform such other duties as may be required of him, and they may elect a secretary, and prescribe his duties. The president and secretary, or either of them, shall make such reports to the county superintendent as are required of common school trustees, and shall publish annually such information as will show the financial condition of the graded common school district, and such other facts as they may deem beneficial to the cause of education in their respective districts.

SEC. 113. [**Free Tuition to Resident White Pupil Children.**]*—*All white children within the common school age residing in any graded common school district shall have the right of free admission to the graded common school thereof.

SEC. 114. [**Terms of Admission of Other Pupils.**]*—*The trustees may admit into said graded common school, children who do not reside within the said district, or persons over the common school age, on such terms and conditions, and upon the payment of such tuition and other fees, as they may deem proper.

SEC. 115. [**Treasurer, His Duties and Responsibilities.**]*—*The said board of trustees shall appoint a treasurer for said graded common school district, who, before entering upon the duties of his office, shall, in the county court, execute bond, with sureties approved by the court, payable to the Commonwealth of Kentucky, for the use and benefit of the trustees of said graded common school district, conditioned for the faithful performance of his duties under this article. All funds arising from the sale of bonds under this law, and all funds collected for the purpose of defraying the annual expenses of said schools, and for the payment of the principal and interest of said bonds, or for any other purpose, shall go into the hands of said treasurer, who shall, together with his sureties, be responsible therefor. Said treasurer shall pay out said funds only for the purposes for which they were respectively collected, upon the

written order of the president and secretary of said board of trustees. The board of trustees shall pay its treasurer such sum for his services as shall be reasonable and just.

SEC. 116. [**Payment of Pro Rata of the State and the County Funds.**]—The county superintendent of common schools shall, annually, pay to the treasurer of any graded common school district that may be organized and operating in his county, in conformity with this article, the pro rata portion of the State and county fund due the said district, according to the number of pupil-children therein, as soon as the same shall come into his hands ; or if desired by the trustees, he may pay in January the full amount due said district.

SEC. 117. [**Provisions of Grounds and Buildings, and Issuance of Bonds.**]—Said board of trustees shall provide funds for purchasing suitable grounds and buildings, or for erecting or repairing suitable buildings, and for other expenses needful in conducting a good graded common school in their graded common school district ; and to this end they may use such part of the proceeds of the said tax as they deem necessary, and it shall be the duty of said board of trustees, and if, in their opinion, it be necessary, and they are hereby authorized and empowered, to issue the bonds of their respective graded common school districts, in such an amount as may be needed to provide suitable grounds, school buildings, furniture and apparatus, but the amount of said bonds shall not exceed fifteen thousand (\$15,000) dollars for any such district. The said bonds may be of any denomination, in even hundreds, not exceeding one thousand dollars each, running not exceeding thirty years, and bearing interest at a rate not exceeding six per cent. per annum, payable annually or semi-annually, as expressed in said bonds, payable to bearer, with interest coupons attached. They shall be signed by the president of said board of trustees and attested by the secretary thereof, shall pass by delivery, and shall be redeemable at the option of said board. Said bonds shall be sold by the trustees, or their authorized agent, for the highest price obtainable, but not for less than their face par value, and the proceeds paid over to the treasurer and applied to the uses and purposes contemplated in this law.

SEC. 118.] **Levy of Annual Property Tax and Capitation**

Tax; Provision for Sinking Fund.]—The board of trustees in any graded common school district where the tax has been voted shall cause to be levied and collected an annual ad valorem tax, in any sum not exceeding the amount voted for in said district under the provisions of this law, upon each one hundred dollars' worth of property of every kind and character, having value and owned by any white person, company or corporation, subject to taxation, within the limits of said graded common school district; or shall cause to be levied annually a poll-tax in any sum not exceeding the amount voted in said district under this law, on each white male citizen residing within the limits of any graded common school district, over twenty-one years of age, or both an ad valorem and a poll-tax, if so voted at the said election: *Provided*, No levy shall be made under the provisions of this law later than the close of the fiscal year in which the last county assessment shall have been made. The board of trustees shall, out of collections under each levy, by order, set apart out of the collections of each levy a sufficient amount to pay interest for the year on any bonds issued, and the treasurer shall pay same; and, in addition, shall, out of the several levies, until entire payment of such bonds, set aside a sufficient amount as a sinking fund, when aggregated, to meet the principal of the bonds at maturity, which sinking fund shall be kept loaned, with ample security, or profitably invested, and shall be used for no other purpose than the payment of principal of such bonds. But if the board so order, the sinking fund, or any part thereof, may be used in the purchase of such bonds before maturity, except a sufficiency to pay interest on the outstanding bonds.

SEC. 119. [**Assessment, Collection, etc., Governed by § 79.**]—The assessment of property, the collection of taxes, powers and duties of trustees and other officers in graded common school districts, shall be governed by section seventy-nine.

SEC. 120. [**Title to all Common School Property and Power Over Vested in Board of Trustees.**]—The title to all common school and all county seminaries property in the limits of any graded common school district, organized under the provisions of this law, shall be, and the same is hereby, vested in the board of trustees of said graded common school

district, and they are hereby authorized and empowered to sell and convey the same, or to use the same for graded common school purposes, as to them shall seem best; but when county seminary property shall be appropriated, all pupils of the county shall be permitted to attend said school at such reduced tuition from what is ordinary as shall be equitable, and make good to them their interest in said seminary property. It is further provided that when any graded school district shall embrace any school property owned or held in trust by trustees, said trustees, by a majority vote of their board, are hereby authorized and empowered to convey their school property to the trustees of the graded school at such price and on such conditions as may be agreed upon by the trustees of both parties.

SEC. 121. [**When Trustees Appoint Officers of Election—Their Duties.**].—After the first election provided for in this law shall have been held, the tax voted, trustees elected, and the graded common school organized, the board of trustees shall appoint the officers to hold all other elections, which officers shall take an oath to be under the same responsibilities and subject to the same penalties as the officers holding State or county elections, only they shall make returns of poll-books, and certify the result of the elections to the board of trustees, who shall examine and compare the same, and issue certificates to the persons found to be elected.

SEC. 122. [**Proposition Failing, a Vote May be had Again in Two Years.**].—If it be found that a majority of the votes cast upon the said proposition in the election provided for in section 100 to be cast against said tax, then the said tax shall not be levied or collected. But the question of voting the said tax may, after the expiration of two years from the first or any subsequent vote, be again submitted to the legal voters of said district upon the conditions and in the manner prescribed for the first vote.

SEC. 123. [**Colored Graded Free Schools.**].—The provisions of this law shall apply to such graded common school districts as may be applied for and organized by the colored people of this Commonwealth, and such districts and graded schools may be organized by them, in all cases, the same as the white districts herein provided for or organized. In that case the word “col-

ored" is to be substituted for the word "white" whenever it has occurred heretofore in this law. No white person shall vote at any election held by the colored people under the provisions of this law; nor shall the property of any white person be taxed to maintain any graded common school for colored children; nor shall the property of any colored person be taxed for the benefit of any graded common school for white children; nor shall any white child attend any graded common school for colored children organized under the provisions of this law; nor shall any colored child attend any graded common school for white children.

SEC. 124. [**Fifth and Sixth Class Cities, or School Organized by Special Act, May Accept Provisions, etc.**].—The provisions of this article shall not affect or in any way interfere with any graded common school or schools maintained by any city of the fifth or sixth class, or any town or school district organized by virtue of a special act of the General Assembly, unless the said city, town or district shall, by a majority vote, indorsed by the recorded action of the board of trustees, accept the provisions of this article for the government of the said school or schools in any election held under the written order of the county judge, or of the mayor of said city, in the manner and under the restrictions of sections one hundred, one hundred and one, one hundred and two and one hundred and three, in which election nothing but the matter of such acceptance shall be determined; and the only question propounded to each voter shall be: "Are you in favor of accepting the provisions of the general graded common school law?" In the event of such majority vote in favor of accepting the said provisions, and an endorsement by the board of trustees, the graded common school or schools of the said city, town or district, shall thereafter be governed by and subject to all the preceding provisions for graded common schools.

SEC. 125.] **First, Second, Third and Fourth Class Cities—Provisions.**—The provisions of this article shall not affect, or in any way interfere with, any system of graded common schools established and maintained by any city of the first, second, third or fourth class, by virtue of a general or special act of the General Assembly. Any city of the first, second,

third or fourth class may accept the provisions of this law, and establish graded common schools, subject to all the provisions thereof, except as specially hereinafter provided in this section, by a majority vote, indorsed by the recorded action of the board of trustees, at an election held in the manner prescribed in section 122. In the event of a majority vote in favor of accepting the said provisions, and an indorsement by the board of trustees, the following provisions shall apply to the graded common schools of such city of the first, second, third or fourth class, instead of the corresponding provisions in the preceding sections of this article: (1.) An order for the holding of an election, as first provided in section 100, may be made by the mayor, and the said mayor shall, in such case, perform all the duties required of the county judge in carrying into effect the provisions of the law; the number of petitioners shall be one hundred instead of ten; the election shall be held by the officer whose duty it is to hold other city elections; the approval of the county superintendent shall not be required in the petition; and the location and site of any proposed school-house shall not be required to be set out in the said petition. (2.) The maximum limit for the cost of any school building shall be one hundred thousand dollars (\$100,000), instead of fifteen thousand dollars (\$15,000). (3.) The number, name and style of the board of trustees shall be determined by themselves instead of the number being limited to six; but the number of trustees in no case shall exceed one more than the number of wards in the city. (4.) The length of the term, the order of retirement, the date of election of trustees, may be fixed by the charter of said city, but the term of office shall in no case exceed four years. (5.) Principals and teachers shall not be required to hold county certificates. (6.) The president of the board of trustees may be elected from the city-at-large, if the said board shall so determine. (7.) The Superintendent of Public Instruction shall pay directly to the treasurer of the city graded common schools the pro rata portion of school funds due said city from the State. (8.) The aggregate amount of the outstanding bonds issued by the board of trustees shall not, at any given time, exceed two per cent. of the taxable property of the city, instead of the bonds so issued being limited in amount

to fifteen thousand (\$15,000) dollars. (9.) The assessment of property made by the city assessor, and equalized according to law, shall be made the basis for collection of city taxes for school purposes of every kind, and the said taxes shall be collected by the city collector at the time of collecting other city taxes, and he shall be responsible on his official bond for the same.

SEC. 126. [**Tax to Complete Buildings and Pay Old Debt.**]*—The board of trustees of graded schools maintained by taxation, and designed for the education of children residing within certain boundaries, may, in cases where the tax now imposed in such districts is not sufficient to pay for the school buildings which have heretofore been completed but not paid for, issue bonds of such districts for an amount equal to the sum due for completing the school buildings, and impose annually a tax of not exceeding twenty-five cents on each one hundred dollars' worth of property in the district, in addition to the tax now imposed in such districts, to pay the bonds so issued and the interest thereon; and the foregoing provisions shall apply as well to like schools under the authority and management of a board of education or other authority of a district, town or city; and in cases where bonds were issued prior to the adoption of the present Constitution, by authority of special laws, and have matured without being paid, the board of trustees, board of education, or other authority of a town, city or district, may issue the bonds of the district, town or city to an amount equal to the sum still due and unpaid, under the conditions and restrictions herein imposed.

SEC. 127. [**Interest on Bonds Limited.**].—The bonds so issued shall bear not exceeding six per cent. interest per annum, and shall be issued by a majority of the trustees, and in such manner as they may deem best, and shall be payable at such times and at such places and in such amounts as they may determine; and the tax to pay the bonds and interest shall be imposed by an order signed by a majority of the trustees, specifying the annual tax to be imposed.

SEC. 128. [**Assessment and Collection Governed by** 79 —
The tax so imposed shall be paid on the assessment value of the

* For amended provision as to paying old debt, see page 84, act marked II.

property in the district as ascertained by the assessment made for State and county purposes next preceding the collection of the tax, and shall be collected in the same manner as is provided for the collection of district taxes by section 79 of this chapter, and the same penalties shall be added for a failure to pay the same; and the same compensation shall be paid for its collection as is paid for collecting the State revenue.

SEC 129. [**Tax to Pay Bonds and Interest—When Levied.**—The board of trustees shall annually, on the second Monday in May, impose the tax, and when paid the treasurer of the board shall at once apply the same to the payment of the bonds and interest as required by the board. When the bonds and interest are paid the tax shall not be levied or collected, nor shall the trustees, or any of them, receive any compensation for their services under this law.

SEC. 130. [**Who to Sign Bonds; Settlement of Accounts.**—The bonds herein provided for shall be signed by the chairman of the board of trustees of the graded school and countersigned by the secretary. The collecting officer and the treasurer of the board of trustees shall settle their accounts with the board on or before the first Monday in January each year, and the board may require them to state their accounts as often as once every three months.

XI. TEACHERS.

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| <p>§ 131. Qualification of Teachers and certificates of qualification.</p> <p>132. Conditions upon which State diploma may be granted; good until holder fails for two successive years to teach; County Superintendent may, for cause, refuse to recognize it for his county.</p> <p>133. State certificate—conditions; examinations held in the counties; good for eight years; County Superintendent may refuse to recognize. County certificates of three grades—how obtained; tenure;</p> | <p>when to be revoked; conditions on which one of first-class may be renewed.</p> <p>§ 134. Teacher must grade school, keep grade register, and make reports.</p> <p>135. State Superintendent shall furnish blanks. Teacher's duty as to reports. Penalty for making false monthly return.</p> <p>136. Teacher shall enforce course of study; must observe rules and regulations prescribed by law; pupil may be dismissed for cause.</p> |
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SEC. 131. [**Certificates of Qualification.**—There shall be three grades of certificates issued to teachers of common schools: First, a State teacher's diploma; second, a State teacher's certificate, and third, a county certificate, which may be a first class, second class or third class. Before any person shall be

qualified to teach any common school, such person shall obtain one of these three grades of certificates.

SEC. 132. [**State Diploma.**—State diplomas may be issued by the State Board of Examiners after a personal examination held at the State Capitol on the last Wednesday of June and August of each year, upon the subjects embraced in the common school course of study, and also upon the science and art of teaching, psychology, English literature, algebra, higher arithmetic, geometry, physics and elementary Latin. In order to be entitled to a State teacher's diploma, the applicant, in addition to attaining on the required examination an average grade of not less than ninety per cent., the lowest grade on any subject being not less than seventy per cent., shall be at least twenty-four years old, shall have taught in the State at least two years, and shall present satisfactory evidence of unexceptionable moral character. A State diploma shall be good in all schools throughout the State, maintained wholly or partly by the State, until revoked by the Superintendent of Public Instruction, or until the holder shall fail for two successive years to be engaged in active school work. It shall qualify the holder for eligibility as candidate for the office of county superintendent of common schools, and may, for cause, be revoked by any county superintendent, subject to the approval of the State Board of Education, as far as it applies to his county, of which immediate information shall be given the Superintendent of Public Instruction. A State diploma shall be impressed with the seal of the State Board of Examiners, and the fee of the applicant shall be five dollars, which shall be paid to the two members, who, with the Superintendent of Public Instruction, compose the State Board of Examiners.

SEC. 133. [**State and County Certificates.**—A State teacher's certificate may be granted by the State Board of Examiners upon the recommendation of the county board of examiners, after a written examination held in applicant's county, attaining an average grade of at least ninety per cent., the lowest grade upon any subject being not less than seventy per cent., upon the subjects embraced in the common school course of study, and also upon English literature, elementary algebra, higher arithmetic, and the science and art of teaching, including

the elements of psychology. In order to be entitled to a State certificate, the applicant, in addition to passing the required examination, shall be at least twenty-one years old, shall have had two years' experience in teaching, and shall present satisfactory evidence of unexceptionable moral character. The questions for the examination of applicants for State certificates shall be forwarded by the State Board of Examiners, with the questions for the June and August county examinations, at the same time, in the same package, and be preserved and opened at the same time as the questions for county certificates. The applicants for State certificates shall be examined on the same days upon which the applicants for county certificates are examined, in June and August, and immediately, upon the close of the examination for State certificates, the county superintendent shall collect the papers of each applicant for a State certificate, preserve them from all inspection, make such examination of them as will enable the said county board, with their personal knowledge of the applicant, to make a recommendation to the State Board of Examiners that a State certificate should or should not be granted, and forward the same by registered mail to the State Board of Examiners, with a recommendation as to the granting of a State certificate. No applicant shall be examined for a State certificate, unless the said applicant is known to the county superintendent to possess an unexceptionable moral character, and to possess the age and experience herein required. With the answers, as forwarded to the State Board of Examiners, the county superintendent shall inclose a written statement in proper form, signed and sworn to by at least two members of the local examining board, that the examination had been held in strict accordance with the law, and that the applicant had not, either directly or indirectly, received any assistance, and that the moral character of the applicant is unexceptionable. If the answers and statement are deemed sufficient, if the recommendation of the county board be favorable, the State Board of Examiners may issue a State certificate, which shall entitle the holder to teach in the common schools of the State, graded or city schools, for a period of eight years, unless revoked by the Superintendent of Public Instruction, or unless the holder shall fail for two successive years to be engaged in active school

work. At the expiration of the time for which it was granted, if it shall not have been revoked by the Superintendent of Public Instruction, and if the holder shall not have failed for two successive years to be engaged in active school work, a State certificate may be renewed for another eight years by the State Board of Examiners without additional fee, upon the recommendation of the board of examiners of the county whereof the holder shall at that time be a resident. Any county superintendent may, for cause, revoke a State certificate as far as it applies to his county, of which immediate information shall be given to the Superintendent of Public Instruction, and be subject to his approval. A State certificate shall be impressed with the seal of the State Board of Examiners, and the fee charged the applicant shall be four dollars, besides the registration fee for forwarding the answers, of which one dollar shall be paid to the county board of examiners. The proceeds of the fees for examination for State certificates, and of the examination of candidates for county superintendent, shall be divided between the two professional members of the State Board of Examiners, in proportion to the services rendered by them. County certificates shall be first class, second class, or third class, and shall apply only to the county in which they are issued, and shall be good for four years, two years and one year, respectively. Third class certificates shall not be issued more than once to the same person in any event. After July 1, 1894, a certificate of the third class shall not entitle the holder to teach in any district reporting fifty-five or more pupil children, nor shall a certificate of the second class entitle the holder to teach in any district reporting seventy-five or more pupil children. A county certificate of the first class shall require an average grade of eighty-five per cent. upon all the subjects of the common school course, and upon the science and art of teaching; and the lowest grade in any subject shall not be less than sixty-five per cent. A county certificate of the second class shall require an average grade of seventy-five per cent., and the lowest grade on any subject shall not be less than fifty-five per cent. A county certificate of the third class shall require an average grade of sixty-five per cent., and the lowest grade on any subject shall not be less than fifty per cent. If, at any time, the holder of a county certificate

shall be found incompetent, inefficient, immoral, or otherwise unworthy to be a teacher, the county superintendent shall revoke the certificate of such person; and any teacher dismissed from school on such grounds shall be entitled to receive payment for services only up to the time of dismissal. Nothing in this act shall be construed to require any teacher now holding a teacher's certificate to be re-examined until the expiration of said certificate. A person having taught for eight consecutive years in the same county under first-class certificates, obtained as hereinbefore provided, may have the last one renewed annually for four years by the county superintendent, who shall write upon it "Renewed," sign officially, and give date of such renewal.

SEC. 134. [**Must Grade School, Keep Grade-Book, and Make Reports.**].—It shall be the duty of each teacher of a common school to keep such register of the school as the State Superintendent may require of and furnish to him as needed, through the county superintendent. The teacher's register shall be the property of the district; shall be systematically graded for at least four years' work; shall be well preserved, without mutilation or useless marking; shall be in the care of the teacher during the school term, and, at the close thereof, shall be delivered to the chairman of the board of trustees, who shall be responsible for it, and deliver it to the teacher at the opening of the next school term, and it shall be open at all times to the inspection of the trustees and the county superintendent. The section allotted to each year shall be divided into two parts, designated as monthly summary and term summary. The monthly summary shall show the day of the week and day of month upon which the term began; the day of the week and of the month of each day taught; the number of pupils enrolled; the number in attendance each day; the name, sex and weekly standing of each pupil in each subject, and such other facts as the Superintendent of Public Instruction may desire. On the last day of each month taught the teachers shall sum up and place at the end of the record for the month the facts herein required to be kept, with the day of the week and month on which the school month closed; the highest and lowest number of pupil children in attendance, and the average percentage of the attend-

ance of the whole number of pupil children in the district. The term summary shall show the monthly statement made at the end of each month, the percentage of the enrollment of the whole number of pupil children in the district, the highest, lowest and average number of children in attendance, the average percentage of the children of the district in attendance, the number of pupils in each class, the name of the text-book used in each class, the point reached by each pupil in each book at the close of the term, the names of all pupils that should be advanced, the class of the teacher's certificate, his average monthly salary, and such other facts as may be required in the register.

SEC. 135. [**Superintendent of Public Instruction to Furnish Blanks; Character of Reports.**—The Superintendent of Public Instruction shall provide for each teacher a blank monthly report for each month to be taught, and also a blank term report. At the end of each month taught, the teacher shall fill the monthly report of that month from the facts summed up in the monthly summary of the register, and shall present the monthly report to the chairman of the board of trustees, who shall carefully examine it, and if found correct he shall, if requested by the teacher, fill out and sign a certificate attached to the monthly report, certifying that the month has been legally taught; and upon the chairman's certificate the teacher shall draw his salary from the county superintendent for the month so certified, after the monthly report has been duly delivered to the county superintendent. Within ten days after the close of the last month of the term, the teacher shall make out the term report from the term summary in the register; shall present the term report, the last monthly report, and the teacher's register to the chairman, who shall carefully inspect them and approve the report, if correct, make out the chairman's annual report, and shall then give the teacher certificates for the month or months not previously certified, and shall place the chairman's annual report in the teacher's hands for delivery to the county superintendent. Nothing herein shall be construed to prevent a chairman of the board of trustees from certifying to, or a county superintendent from paying for, a fraction of a month in any case in which the teacher, from sickness or other disability,

shall be unable to continue the school. Any teacher who shall make a false monthly or term report, or any chairman of trustees who shall give a certificate of a month or months taught before he has carefully examined and approved the report of each month, or any county superintendent who shall make a payment upon a teacher's salary, except upon the chairman's certificate, shall be guilty of a misdemeanor, and, on conviction, be fined fifty dollars for each offense.

SEC. 136. [**Required Duties—Penalty for Willful Refusal or Neglect—Authority—Appeal.**]—Teachers shall faithfully enforce in school the course of study, the use of the text books adopted in the county, and the regulations prescribed in pursuance of law; and if any teacher shall willfully refuse or neglect to comply with such regulations, the county superintendent, on petition or complaint of the trustees, may remove or dismiss him; and in case of such dismissal or removal, the said teacher shall receive payment only for the time taught. The teacher is authorized and directed to hold each pupil to a strict accountability for any disorderly conduct on the play-ground, or during any intermission or recess, or on the road to and from school; and for good cause he may suspend any pupil; but such suspension shall be immediately reported, in writing, to the chairman of the board of trustees. In cases of suspension, the action of the teacher shall be final unless reversed by the trustees. Either party may appeal from the decision of the trustees to the county superintendent, whose decision shall be final. But no teacher shall be required or under any obligation to teach any other than the common school branches prescribed by the State board of Education in the common schools, unless it shall be so specified in a written contract with the trustees.

XII.—TEACHERS' INSTITUTE.

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| <p>§ 137. Duty of County Superintendent; object in organizing and holding Teachers' Institute; how many days must occupy and in what months must be held; duty of State Board of Examiners in regard to programme and syllabus; penalty for not holding Institute.</p> <p>138. County Superintendent must employ one or more able and experienced Institute Conductors.</p> <p>139. State Superintendent may annually call a convention of Institute Conductors.</p> <p>140. Who required to attend full session of the Institute; penalty for failure or neglect to attend full session unless from sickness or other disability; after County Institute held, only conditions on which a certificate to teach can be granted; during Institute, schools in session shall be suspended; time for which the Teachers shall have credit.</p> <p>141. Adjoining counties, not exceeding four, may hold joint Institute; Superintendents must employ at least two able Conductors.</p> | <p>§ 142. County Superintendent shall be present during entire session of the Institute; his duties concerning daily register prescribed; what fee from each member may be collected and for what purposes.</p> <p>143. Duty of County Superintendent in selecting a proper place for holding the Institute; when and how notify Trustees as to time and place of holding the Institute, and to post notices thereof; duty of each Trustee to notify promptly every Teacher in his district.</p> <p>144. The Superintendent of Public Instruction may recommend able and experienced Normal Instructors to conduct the Institutes, whose pay shall be derived from the Institute fund.</p> <p>145. At each session of the Institute every subject relating to the work of the Teacher, must be properly exhibited.</p> <p>146. County Teachers' Association during Institute—its composition, office, and object.</p> <p>147. County Superintendent shall, in his annual report, make special report of the Teachers' Institute and of the Teachers' Association.</p> |
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SEC. 137. [**Organization—Object—Time—Programme and Syllabus—Penalty.**].—It shall be the duty of each county superintendent to organize, and cause to be held annually, a teachers' institute for the normal instruction, improvement and better qualification of the teachers of his county. The institute shall occupy not less than five nor more than ten days, and shall be held between the first day of July and the first day of November. The Superintendent of Public Instruction, and the two professional members of the State Board of Examiners, shall constitute a committee on programme to prepare and place in the hands of each county superintendent, not later than June first of each year, a programme of the work of the institute, and a syllabus of each subject of instruction. The programme and syllabus shall be furnished each member of the institute, and shall be faithfully and efficiently carried out. Any county superintendent, who shall willfully fail or neglect to hold the annual institute as prescribed in this article, shall be fined fifty dollars.

SEC. 138. [**One or More Able and Experienced Conductors to be Employed.**].—Each county superintendent of the State may employ one or more able and experienced institute instructors to direct each institute held by him, and to instruct the teachers thereof.

SEC. 139. [**Convention of Institute Conductors—Object of.**].—Beginning in eighteen hundred and ninety-four, the Superintendent of Public Instruction may, annually, call all the professional institute workers of the State into institute convention at the State Capital, during the month of May, for the purpose of better organization and more effective management of institute work. At the said institute convention, the whole subject of institute work shall be thoroughly discussed, and the best plans for prosecuting it throughout the State shall be adopted and used in all counties. The said institute convention may suggest to the committee on programme principles, subjects and methods of [for] incorporation in the programme syllabus.

SEC. 140. [**Who Must Attend Institute—Penalty for Non-Attendance, etc.**].—Every teacher of a common school, including teachers of the graded common schools in cities of the fifth and sixth classes who hold a State diploma, State certificate or county certificate, or who contemplates applying for certificate of qualification to teach in the common schools, shall attend the full session of the institute in his home county unless he is teaching in another county in which the institute is yet to be held, or has attended the institute of a county in which he has a contract to teach. In teaching in a county other than his home county, whose institute is yet to be held, he must attend the full session of the latter. The county superintendent shall revoke the certificate of any teacher who shall fail or neglect to attend the full session of the institute, unless the superintendent shall be fully satisfied that such failure has been caused by actual sickness or other disability. After the county institute has been held, it shall be unlawful to grant any person a certificate to teach at any time during that school year, unless the said person shall have attended the full session of the institute of that or some other county during that school year, or unless the county superintendent shall be fully satisfied

that the failure to attend the institute had been caused by sickness or other disability. During the institute there shall be a suspension of such other schools as are in session, but no reduction of the teacher's salary shall be made on account of such suspension except as hereinafter provided. The time of actual attendance upon the institute in days and parts of days shall be accredited to the teacher if the institute be held during the session of his school. At the close of the institute the county superintendent shall give to each teacher or other person in attendance a certificate of the number of days and parts of days that the teacher or other person had attended, which certificate of attendance shall be filed by the teacher with the chairman of the board of trustees of the district, who shall make report thereof to the county superintendent at the time of reporting the school.

SEC. 141. [**Joint Institutes; two Conductors to be Engaged; Record.**]—Any adjoining counties, not exceeding four in number, may combine and hold a joint institute: *Provided*, The county superintendents of all the counties concerned shall agree upon the plans necessary to the purpose; that each of them shall attend the full session of the said joint institute, and keep the record provided in section 142, and that at least two able and experienced instructors are employed, if more than two counties are combined.

SEC. 142. [**Duties of County Superintendent; Proceedings to be Published in Local Paper.**]—The county superintendent shall be present during the entire session of the institute; shall have the roll called every morning and afternoon; shall keep a strict daily register of the presence, absence and tardiness of the teachers and other members, and of the exercises of the institute, and, after the close thereof, shall have the proceedings printed in one or more newspapers. He may collect two dollars, but in no case shall he collect less than one dollar from each teacher or other person in attendance on the institute, except honorary members, and twenty-five cents of the sum so collected from each person shall be paid into the county library fund. From the fees collected from the teachers and other persons in attendance the county superintendent shall pay all necessary expenses of the institute. The proceedings shall be

published in such local papers as will do this without charge, and one copy shall be forwarded to the office of Superintendent of Public Instruction. Any residue, after the payment of institute expenses, shall also be paid into the county library fund. In case of a joint institute, any surplus fund shall be prorated among the counties concerned.

SEC. 143. [**Selection of proper Place for Institute—Notices of.**—In selecting a proper place for holding the teachers' institute, the county superintendent shall decide with reference to the convenience and accommodation of the place, and shall endeavor to make such arrangements as he best can for economizing and reducing the expenses of teachers while in attendance. He shall, twenty days before the institute begins, notify by mail the trustees of his county of the time and place of holding it; and it shall be the duty of each trustee to notify promptly every teacher in his school district. The county superintendent shall likewise direct the trustees of each district to post notices thereof.

SEC. 144. [**Normal Instructors May be Recommended.**—The Superintendent of Public Instruction may, when requested by a county superintendent, recommend able and experienced normal instructors to conduct the teachers' institute, whose pay shall be derived from and paid by the county superintendent out of the funds raised from the teachers and other members of the institute.

SEC. 145. [**Subjects of Instruction.**—At each session of the institute, every subject embraced in the common school course shall be brought before the institute, illustrated and described, and every feature of school organization and school management, together with the whole work of the teacher, shall be considered, and the common school laws of the State read and expounded.

SEC. 146. [**County Teachers' Association.**—During the session of the institute there shall be held a county teachers' association, and one hour in the afternoon or the night meeting shall be daily set apart for this purpose. The association may be composed of all the officers and teachers of common schools present, and shall be called together by the county superintendent, who shall be *ex officio* president. The objects of such asso-

ciation shall be, primarily, to discuss and devise the best ways and means of promoting the interests of education, the improvement of teachers, and the methods of teaching, and especially to devise means for securing better school-houses, better attendance, and local aid for common schools. The said association shall be a permanent organization, with one vice-president for each magisterial district, to be elected or appointed; and shall hold at least one meeting in each magisterial district, besides the meeting at the institute, during the first six months of each school-year. Every teacher shall attend at least the meeting held in the magisterial district in which he shall teach, and upon failure to do so, shall teach an additional day during the school month following such failure, unless he shall satisfy the county superintendent that such failure was caused by sickness or other actual inability. The county superintendent shall attend each meeting of the association, and shall prepare or have prepared a programme of the exercises therefor.

SEC. 147. [**Report of County Superintendent.**].—The county superintendent shall, at the time of making his annual report to the Superintendent, also report the time and place of holding the teachers' institute, the name of the person or persons conducting the same, the number of persons registered as in attendance, the sum collected by a fee from each person in attendance, the number of teachers of common schools in the county who did not attend the institute and teachers' association; and such other facts as he may deem of value and interest.

XIII. COUNTY AND DISTRICT LIBRARY.

§ 148. County Library for Teachers. To be in care of County Superintendent; for whose benefit; Institute fees and donations to constitute fund.

149. County Library Committee to consist of Superintendent and two persons annually elected by County Institute; character of record; report to be made to Superintendent of Public Instruction.

150. Organization and management of a library in connection with a district school; *proviso*—none of the

school revenues from general taxation shall be used for benefit of the library.

§ 151. Trustees shall have control over the library; shall be accountable for its care and management, and make annual report concerning it to County Superintendent. Trustees may receive donations to it; forbidden books; library free to all pupils of suitable age belonging to the district; conditions of membership to other residents of the district.

SEC. 148. [**County Library — By Whom Kept; Funds — How Provided.**].—There shall be a county teachers' library in

each county of the Commonwealth, to be kept under the care and in the office of the county superintendent, for the exclusive use and benefit of the teachers of the county. The sums collected for the purpose at each annual institute, and all sums added thereto by donation, shall constitute the county library fund, which shall be kept and accounted for by the county superintendent.

SEC. 149. Library Committee — of Whom Composed; Duties.—The county superintendent, as chairman, and two persons annually elected by the county institute, shall constitute a library committee for the selection and purchase of books, periodicals and furniture, and for the adoption of rules for the management of the library under the regulations of the State Board of Education. The Superintendent of Public Instruction shall supply each of these libraries with a bound copy of each edition of the school law, of his biennial reports, and other publications of his department. The library committee shall keep a permanent record of its acts and accounts open at all times to the inspection of the teachers; and, through its chairman, shall annually report to the county institute an itemized statement of all sums received and expended; the number, names and cost of books and other articles purchased; all donations of books and periodicals, with the names of the donors; the number of books belonging to the library; the number in the library; the number on loan, and such other facts as may be required; and, in his annual report to the Superintendent of Public Instruction, the county superintendent shall state the sums received, the sums expended, the number of volumes in the library, and the increase during the year.

SEC. 150. [Organization and Management of District Library.]—When, by contribution, purchase or otherwise, forty volumes can be collected for such purpose, the district trustees may organize a district library in connection with the school of the district, which shall be for the use of the district in which the same is located. They may make such suitable arrangements for keeping the books and periodicals of the said library as may be necessary, and may appoint a suitable person to take charge of the same, and to manage it according to such rules as

they may prescribe, subject to the regulations prescribed by the county board of examiners.

SEC. 151. [Trustees to Have Control of District Library; Regulations.]—The trustees shall have the same control over the library as over the other school property; may receive donations of books, maps, charts, and other works of interest. But no books of a sectarian, infidel, or immoral character shall be placed in the library; and any such books found therein shall be removed by order of the trustees or the county superintendent. The library shall be free to all pupils of suitable age belonging to the schools of the district, but any resident of the district may become entitled to its privileges upon the payment of such a sum of money for membership as the trustees may prescribe.

XIV. COLORED SCHOOLS.

- § 152. Disposition of all sums arising from any donation, gift, grant, or devise, to aid in the education of the colored children of this Commonwealth, or of any county or school district therein.
153. Pupil-children shall be between the ages of six and twenty years, and census shall be taken and reported at the same time and in the same manner as the census of white children.

- § 154. Time and manner of electing Trustees; taxes and services for benefit of schools, voting for Trustees, and attendance at schools—distinct for each race.
155. The School Officers and Teachers shall be organized into Teachers' Institutes, for themselves, as provided in §§ 137-147.

SEC. 152. [Donation --- Gift --- Grant --- Devise.]—All sums arising from any donation, gift, grant or devise by any person whatsoever, wherein the intent is expressed that the same is designed to aid in the education of the colored children in this Commonwealth, or any county or school district therein, shall be held and used for the purposes specified in such donation, gift, grant or devise; and the Superintendent of Public Instruction, county superintendent of common schools of the county, and trustees of colored common school districts, shall receive such donations, gifts, grants, or devise for the benefit of the colored schools of the State or particular county or district, respectively, and shall hold and use the same as requested by the donor or devisor.

SEC. 153. [Pupil Age—Annual Census; How Districts Shall be Designated.]—The number of colored children in

each district, between the ages of six and twenty years, shall be taken and reported at the same time and in the same manner as required by law for taking the census of white children. All colored districts shall be designated by letters in alphabetical order for each county, as District A, District B, and so on.

SEC. 154. [**Election of Trustees — District Taxes, Votes and Schools.**—Colored school trustees for each colored school district shall be elected at the same time and in the same manner that white trustees are elected ; but no tax shall be levied upon the property or poll, or any services required of any white person for the benefit of a school for colored children ; and no tax shall be levied upon the property or poll, or any services required of any colored person for the benefit of a school for white children ; and no colored person shall be allowed to vote for a trustee of a white school, and no white person shall be allowed to vote for a trustee of a colored school. It shall not be lawful, under any of the provisions of this chapter, for any white child to attend any common school provided for colored children, or for any colored child to attend any common school provided for white children.

SEC. 155. [**County Teachers' Institute.**—The colored school officers and teachers shall be organized into teachers' institutes for themselves, in the same manner, and to the same extent, as provided for in sections 137 to 147, inclusive.

SEC. 156. [**Penalties Prescribed ; How Enforced.**—All duties which are required of any officer under this chapter shall be performed by them under the penalties herein prescribed ; and when no penalties are prescribed, then the officer failing to perform the duties imposed shall be guilty of a misdemeanor, and, upon indictment in the circuit court of the county in which said misdemeanor may occur, shall be subject to a fine in any amount, in the discretion of a jury, and the Superintendent of Public Instruction shall give information of all failures or neglect of duty which come to his knowledge to the attorney for the Commonwealth in the county in which the failure to perform or neglect of duty shall occur. The Superintendent of Public Instruction shall issue, as occasion demands, a circular letter to the circuit judges of the State, setting out the methods by which frauds have been committed against the State school

funds, and other violations of the school law perpetrated, and request that they call the attention of the grand juries to the same.

SEC. 157. [**Emergency—Why Existing.**—As a large number of pupil children in the State that are deprived of an opportunity to attend a five months' school, by reason of being placed in districts that maintain only three and four-months' schools; and as it is clearly the intention of the law that each child should, at as early a date as possible, have an equal opportunity to obtain a common school education; therefore, an emergency exists, which emergency is hereby declared, and this act shall take effect when approved by the Governor; and all laws and parts of laws in conflict herewith are hereby repealed

Act approved July 6, 1893; amended by Act of March 10, 1894.

SCHOOL LAWS

OTHER THAN THOSE FOUND IN CHAPTER 260, ACTS OF ASSEMBLY 1892-'93, AND CONTAINED IN THE PRECEDING PART OF THIS WORK.

I. A TAX TO REIMBURSE TRUSTEES.

AN ACT to provide for the levy and collection of a tax in certain common school districts to pay off indebtedness incurred by the trustees of such school districts in erecting and furnishing school-houses.

WHEREAS, The trustees of some of the common school districts in this State have borrowed money, and have expended the same in erecting and furnishing school houses in their respective districts; and whereas, the present rate of taxation authorized by law is wholly insufficient to pay off and discharge such indebtedness so incurred within a reasonable time; now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the trustees of all common school districts in this State, in which said trustees have heretofore borrowed or furnished money, and have expended the same in erecting and furnishing school-houses in their respective districts, and where the indebtedness so incurred remains unpaid, and the present rate of taxation authorized by law is insufficient to raise a sum in said districts sufficient to pay off and discharge said indebtedness within two years, the said trustees are authorized and empowered to order a tax, not exceeding the sum of twenty-five cents on each one hundred dollars' worth of taxable property in their respective districts, each and every year hereafter, until a sum sufficient has been raised to pay off and discharge such indebtedness so incurred.

§ 2. Said tax should be levied and collected as provided by law for the levy and collection of the present school tax: *Provided*, That no tax shall be levied or collected from the property of colored persons to pay any indebtedness incurred for the benefit of schools for white children.

Approved July 1, 1893.

III. PROVISION FOR PAYING OLD DEBT OF GRADED COMMON SCHOOL DISTRICT.—AMENDED ACT.*

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the board of trustees of graded schools maintained by taxation and designed for the education of children residing within certain boundaries, may, in (some) cases where the tax now imposed in such districts is not sufficient to pay for the school buildings, grounds, school furniture, apparatus, and to pay the debts that the trustees of the district have contracted in establishing and furnishing the same, issue the bonds of such district for an amount sufficient to meet said indebtedness, and impose annually a tax of not exceeding twenty-five cents on each one hundred dollars' worth of property in the district, in addition to the tax now imposed^{*} in such districts, to pay the bonds so issued and the interest thereon.

§ 2. The bonds so issued shall bear not exceeding six per cent. interest per annum, and shall be issued by a majority of the trustees, and in such manner as they may deem best, and shall be payable at such times, and at such places, and in such amounts, as they may determine; and the tax to pay the bonds and interest shall be imposed by an order, signed by a majority of the trustees, specifying the annual tax to be imposed.

§ 3. The tax so imposed shall be collected by the assessment value of the property in the district, as ascertained by the assessment made for State and county purposes next preceding the collection of the tax, and may be collected by the sheriff of the county, or by a collector appointed for that purpose by the board of trustees; and the collector or sheriff shall have the same power in the collection of such tax as he has in the collection of State tax, and the same penalties shall be added for a failure to pay the same, and it shall be collected at the same

* See section 126, general law, *ante*.

time and in the same manner as the State tax; and the same compensation shall be paid for its collection as is paid for collecting the State revenue.

§ 4. The board of trustees shall, annually, on the second Monday in May, impose the tax, and, when collected, it shall be paid to the chairman of the board, who shall at once apply the same to the payment of the bonds and interest. When the bonds and interest are paid, the tax shall not be levied or collected, nor shall the trustees, or any of them, receive any compensation for their services under this act.

§ 5. The bonds herein provided for shall be signed by the chairman of the Board of Trustees of the graded school. No tax collector appointed under the provisions of this act shall commence the discharge of the duties of his office until he has appeared in the county court of the county in which the graded school is situated and taken the oath of office and executed, with good sureties, a bond similar to that prescribed by law for other tax collectors. Before the chairman of the board of trustees shall receive the taxes collected, as provided for by section 4, he shall execute in the county court a bond with good surety, conditioned for his faithful application of moneys that may come to his hands. If he shall fail or decline to give such bond, then the sheriff or collector shall hold the taxes collected, subject to be paid out upon the bonds as ordered by the board of trustees. The collecting officer and the chairman of the board of trustees shall settle their accounts with the board on or before the first Monday in January each year, and the board may require them to state their accounts as often as once every three months.

§ 6. That in the event trustees do not desire to issue bonds, they shall collect the taxes provided for in the previous sections and apply the same, after paying cost of collecting, to the discharge of the indebtedness, pro rata, from year to year, till all the said debts are paid; and if, after making final levy and paying the debts, there is a residue, it shall be turned over to the district treasurer and become common funds of the district. But excepting the residue mentioned in this section, no part of the taxes or proceeds of bonds herein provided for shall be used for any other purpose than paying cost of collecting and the

debts contracted by the trustees prior to the time of levying the first year's tax provided for in this chapter.

§ 7. It appearing that there are graded school districts in the Commonwealth that have contracted debts, for the payment of which there is no provision, an emergency is therefore declared, and this act shall take effect from its passage.

Approved March 3, 1894.

III. ADJUNCT SCHOOLS AND COLLEGES.

AN ACT to enable incorporated colleges and universities located in this Commonwealth to establish adjunct schools and colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That any incorporated college or university located in this Commonwealth shall have power to establish adjunct schools and colleges in any part of the Commonwealth to be operated in connection with and under the auspices of the college or university by which they shall be established; and for the purpose of establishing, operating and controlling said adjunct schools and colleges the institution establishing them shall have power to solicit and receive subscriptions and donations of money and other property.

§ 2. All money and property subscribed, donated or otherwise procured, for the benefit of any adjunct school or college, shall be held and applied by the board of trustees or curators of the institution establishing them for the purpose of establishing, maintaining and controlling said adjunct school or college; and said board of managers shall have power to procure grounds and erect buildings thereon for their use and occupation; to appoint and remove teachers for the same; to prescribe a course of study for the students thereof, and confer degrees of graduation therefrom; and to exercise the same general supervision and control over them that they are empowered by their several charters to exercise over the affairs of their respective institutions.

§ 3. This act shall take effect ninety days after its passage.

Approved June 28, 1893.

IV. THE AGRICULTURAL AND MECHANICAL COLLEGE.

AN ACT to provide for the effective management and administration of the Agricultural and Mechanical College of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the government, administration and control of the Agricultural and Mechanical College of Kentucky be, and is hereby, vested in a board of trustees, constituted and appointed as follows:

1. His Excellency, the Governor of Kentucky, who shall be *ex officio* chairman thereof.

2. Fifteen men, discreet, intelligent and prudent, who shall be nominated by the Governor of Kentucky, by and with the advice and consent of the Senate. They shall hold office for six years, five retiring and five being appointed at each regular session of the General Assembly. Said nominations shall be made within fifteen days after the Legislature convenes. Said trustees shall be appointed and distributed as follows, namely: One from each Congressional district outside of the Congressional district in which Lexington is situated, and the remainder from the latter district; but no more than three trustees shall be appointed from the county of Fayette: *Provided*, That no trustee now serving under an appointment previously made shall be displaced by the operation of this act before his term of service shall have expired.

3. The president of the college shall be *ex officio* a member of the board of trustees.

§ 2. The board of trustees, when appointed and qualified, shall be a body-corporate, under the corporate name of the Agricultural and Mechanical College of Kentucky, and as a corporation shall have power to sue and be sued, implead and be impleaded, contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to the governing bodies of educational institutions. They shall have power to receive, hold and administer, on behalf of the institution whose government, administration and control is committed to them, all revenues accruing from all existing or future endowments, appropriations or bequests, by whomsoever made, subject to the conditions attaching thereto:

to receive, administer and apply, for and on behalf of said college, all moneys, devises, stocks, bonds, buildings, museums, lands, apparatus, and so forth, and so forth, under the conditions attaching thereto. Said trustees shall have power to determine, from time to time, the number of departments of study or investigation which the college shall comprise within the scope of the organic act of Congress, or acts supplementary thereto, donating land scrip for the endowment of Agricultural and Mechanical Colleges; the relation which each department or group of departments shall sustain to each other and to the whole; to devise, allot and arrange the distribution of departments or groups of departments, with the designation appropriate to each, and to devise the means required for their effective instruction, administration and government. They shall have, also, power to appoint presidents, professors, assistants, tutors and other officers, and to determine the salaries, duties and official relations of each; and shall provide for a definite salary in money attached to all positions created and filled by the board of trustees; and there shall be no additions thereto in the form of fees, perquisites or emoluments of any kind whatever. They shall have full power to suspend or remove at will any of the officers, teachers, professors or agents whom they are authorized by law to appoint, and to do all other acts which may be needful for the welfare of the institution.

§ 3. Said board of trustees shall have power to grant degrees to the alumni of the institution; to prescribe conditions upon which post-graduate honors shall be obtained by its alumni and others, and to confer such honorary degrees, upon the recommendation of the faculty of the institution, as they may think proper.

§ 4. A majority of the whole board shall constitute a quorum for the transaction of business.

§ 5. In the appointment of presidents, professors or instructors, no preference shall be shown to any religious denomination.

§ 6. The board of trustees shall meet in Lexington twice each year, in the president's room in the college, namely: Upon the Tuesday preceding the annual commencement, and upon the second Tuesday in December. In the absence of the Governor the board shall have the power to appoint a chair-

man *pro tem*. They shall elect annually a secretary, who shall keep a record of their proceedings, and a treasurer, who shall receive and disburse the funds, and a business agent, who shall make all purchases for all departments of the college, and attend to all the business under the direction of the board. Said secretary and treasurer and business agent shall receive for their services a fair compensation; but the treasurer elected under the provisions of this act shall not be a member of the board of trustees or of the faculty of the college, or otherwise an employe of the college or of any of the departments thereof. They shall, at each regular meeting, appoint an executive committee, consisting of five of their number, residing in or near Lexington, including a chairman thereof, three of whom shall constitute a quorum; and said committee shall choose from their number a chairman *pro tempore*, to act in the absence of the permanent chairman. The executive committee shall be charged with the general administration of the affairs of the college under such by-laws and regulations as shall be prescribed by the board of trustees, and with the execution of measures specially authorized by the board. It shall, at each regular meeting of the trustees, and at each called meeting if required, submit to the board a complete record of its proceedings for the consideration and approval of the board of trustees: *Provided*, That the authority of the board of trustees to revise the acts of the executive committee shall not extend to the rejection of any valid or authenticated account of money expended under a general or specific authority granted by the board of trustees, and within the sums appropriated by the board for specific or contingent objects at regular or called meetings. The secretary of the board of trustees shall also be secretary of the executive committee and the custodian of the records, and so forth, of the board and of said committee.

§ 7. That the treasurer of said college shall enter into covenant with the Commonwealth of Kentucky, with one or more good sureties bound therein, to be approved by the board of trustees, conditioned for the faithful performance of his duties, and the payment of all moneys that shall come to his hands to his successor in office, or to such person or persons as may be lawfully entitled to receive the same. Any person or persons, including

the board of trustees, injured by any breach of this bond, may maintain in the Fayette Circuit Court appropriate action thereon. The said treasurer shall keep an itemized account of receipts and expenditures, and shall pay out no money except on authorization of the board of trustees, given directly or through its executive committee. He shall render to the executive committee monthly statements of receipts and expenditures, and amount on hand, and a full detailed statement, with vouchers, for the information and action of the board of trustees at its regular annual meeting, and at other periods when required.

§ 8. In the case of the death, resignation or refusal to serve of any of the trustees appointed as members of the board on behalf of the State, the remaining trustees shall, at their first meeting thereafter, have power to fill all vacancies occasioned by such death, resignation or refusal to serve; and the person or persons so appointed shall hold their office as trustees during the natural or unexpired terms of the person or persons for whom they are substituted and appointed. Any trustee who shall fail to attend two consecutive meetings, without proper notification to the secretary of the reason therefor, shall thereby vacate his office of trustee, and the board shall fill the vacancy as hereinbefore provided for.

§ 9. All necessary expenses incurred by the trustees in going to, returning from, or while attending the meetings of the board, shall be met and discharged out of the funds of the institution.

§ 10. That in addition to the regular meetings, called meetings of the board of trustees may also be held. The call for such meeting must be in writing, signed by three or more trustees. The call must also be formally communicated by the secretary to each trustee by mail, at his post-office address, at least fifteen days before the day fixed for the meeting, and must state definitely the object of the meeting; and no business not thus explicitly announced shall be acted on at the called meeting.

§ 11. That the regular collegiate period of the Agricultural and Mechanical College shall be four years, and only those students who pass through that period and attain the prescribed standard of proficiency in the regular course of studies, or those

who, having qualified themselves elsewhere, shall be found, after at least one year's attendance in the college, to have attained the prescribed standard of proficiency in the regular course of studies, shall receive a diploma from the college. But a normal department or course of instruction for irregular periods, designed more particularly, but not exclusively, to qualify teachers for common or other schools; and an academy or preparatory department to prepare students for the regular courses of study in the college, shall be established and maintained in connection with the college, each under a competent principal and assistants, and under the general supervision and control of the faculty thereof.

§ 12. That the board of trustees be, and hereby are, empowered to establish proper regulations for the government of the college and the physical training, military or otherwise, of the students, and to authorize the suspension and dismissal of students for neglect or violation of the regulations, or for other conduct prejudicial to the character and welfare of the institution.

§ 13. That the board of trustees shall make to the General Assembly, within the first month of each regular session, a full report of the condition and operation of the college since the date of the preceding report, with such recommendations concerning the college as may be deemed necessary.

§ 14. Each legislative district in the State shall, in consideration of the incomes accruing to the college under "An act for the benefit of the Agricultural and Mechanical College of Kentucky," approved April 29, 1880, be entitled to select and to send to said college each year one properly prepared student, free from all charges for tuition, matriculation fees, room-rent, fuel and lights, and to have all the advantages and privileges of the college and dormitories free, except board. Said students shall be entitled, free of any cost whatever, to the benefits enumerated above, for the term of years necessary to complete the course of study in which he or she matriculates for graduation, or during good behavior. All beneficiaries of the State who continue students for one consecutive collegiate year, or ten months, unless unavoidably prevented, shall also be entitled to their necessary trav-

eling expenses in going to and returning from said college. The selection of the beneficiaries shall be made by the superintendents of common schools in their respective counties, upon competitive examination, on subjects prepared by the faculty of the college, and transmitted to said superintendents before the first day of June of each year: *Provided*, That no standard of admission adopted by the college for admission into the academy shall exclude from the benefits of this act county appointees who have completed the course of study prescribed by law for the common schools of the Commonwealth. Said competitive examination shall be open to all persons between the ages of fourteen and twenty-four years. Preference shall be given, other things being equal, to those who have passed with credit through the public school, persons of energy and industry, whose means are small, to aid whom in obtaining a good education this provision is intended. If any representative district contains more than one county, each county so included shall be entitled to select one beneficiary as aforesaid. Said competitive examination shall be held, and the successful competitor appointed, between the first day of June and the first day of August of each year. It shall be the duty of the county superintendent to make known the benefits of this provision to each common school district under his superintendency, with the time and place when and where such competitive examination shall be held. He shall, for this purpose, appoint a board of examiners, whose duty it shall be to conduct the examination.

§ 15. In addition to the foregoing, teachers or persons preparing to teach may be admitted at the rate of not more than four from each county, upon the same conditions, receive the same benefits, and have the same privileges in said college as prescribed in the preceding section. These appointments shall be vested in the county superintendents. Said appointments may be made and certified to the president of the college at any time between the first day of July and the thirty-first day of December of each year.

§ 16. The president shall, on or before the first day of July of each year, have printed and mailed to each county superintendent of common schools of this State at least as many circulars of information relative to said college as there are common

school districts in said respective counties. Said circulars shall set forth in full the benefits of, methods of admission into, and the probable cost to beneficiaries of said college. The county superintendent of common schools shall have at least one of said circulars posted in the school house of each common school district in their respective counties during the term of the free school thereof.

§ 17. All acts and parts of acts in conflict with this are hereby repealed.

§ 18. That, as the difference in the cost of travel from different parts of the State practically operates as a difference in advantages offered to different parts of the State, an emergency is declared to exist, and this act shall be in full force and effect from and after its approval by the Governor.

Act approved May 9, 1893.

V. STATE NORMAL SCHOOL FOR COLORED PERSONS.

AN ACT concerning the State Normal School for Colored Persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. The State Normal School for Colored Persons, established by an act of the General Assembly approved May eighteenth, one thousand eight hundred and eighty six, shall hereafter be under the control and supervision of a board of trustees, composed of the Superintendent of Public Instruction, who shall be *ex officio* chairman of the board, and three intelligent and discreet persons, residents of Franklin county, to be appointed by the Governor subject to the approval of the Senate, who are hereby constituted a body-corporate, with power to sue and be sued, plead and be impleaded, and to hold in trust all funds and property now owned by said school, or which may hereafter be provided for it, and shall be known and designated as "The Board of Trustees of the Kentucky State Normal School for Colored Persons." The term of office of the three members appointed by the Governor shall begin on the first day of July, one thousand eight hundred and ninety-three, and one member thereof shall retire, as may be determined by lot, at the end of one year thereafter, one in

two years, and the other in three years; their successors shall be appointed by the Governor for a term of three years; they shall be subject to removal by the Governor for cause, and he is authorized to fill all vacancies occurring by death, resignation or otherwise. Said board shall adopt such rules for the government of said school, not inconsistent with law; as they deem proper, and shall supervise all its interests, provide for all its wants, confer weekly with the faculty, and require formal reports of the actual condition of the school in every regard. They shall, biennially, beginning on the first day of July, 1893, elect some suitable person outside of their own number as treasurer, who, before entering on his duty, shall give bond in such a sum as they may prescribe, and they shall agree with him as to compensation: *Provided*, That in no case shall such compensation exceed one hundred dollars per annum.

§ 2. There shall be maintained in said institution a department for the education of colored students in agriculture and the mechanic arts, and for said purpose said board shall be entitled to receive an equitable division of the moneys arising from the sale of public lands, and appropriated to the State of Kentucky by an act of Congress, approved August 30, 1890, entitled "An act to apply a portion of the proceeds of public lands to the more complete endowment and support of the college for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress," approved July 2, 1862.

§ 3. Said board shall prescribe the course of study for the said normal school; shall select the instructors and fix their salaries, and shall determine the conditions, subject to the limitations hereinafter specified, on which pupils shall be admitted to the privileges of the school.

§ 4. Any pupil, to gain admission to the privileges of instruction in said normal school, shall be at least sixteen years of age, possess good health, satisfactory evidence of good moral character, and sign a written pledge, to be filed with the principal, that said applicant will, as far as practicable, teach in the colored common schools of Kentucky a period equal to twice the time spent as a pupil in said normal school, together with such other conditions as the board may, from time to time, impose. But no such pledge shall be required of pupils who matriculate in the departments of agriculture or mechanics.

§ 5. Tuition in the said normal school shall be free to all colored residents of Kentucky who fulfill the conditions as set forth in the preceding section, and such other conditions as the board may require. The board shall fix the rate of tuition and the conditions on which pupils, who are not residents of Kentucky, may be admitted to the privileges of said normal school.

§ 6 No religious tenets shall be taught in said normal school, but a high standard of Christian morality shall be observed in its management, and, so far as practicable, shall be inculcated in the minds of the pupils.

§ 7. The board shall, in a body or by a majority of their number, visit said normal school once during each session, witness the exercises, and otherwise inspect the condition of said school, and they shall make a biennial report to the Legislature, setting forth the financial and scholastic condition of said normal school, making such suggestions as in their opinion would improve the same, and in the years in which there is no session of the Legislature, they shall make their report to the Governor.

§ 8. The sum of \$3,000 shall be annually appropriated out of the State Treasury to pay the teachers and defray other necessary expenses in the maintenance of said normal school, which amount, together with the sum received under the provisions of said act of Congress, shall be set apart and be known and held as the colored normal school fund. This fund shall be paid out of the State Treasury only on the warrant of the Auditor, drawn on the order of the board.

§ 9. The board is authorized to grant, from time to time, certificates of proficiency to such pupils as shall have completed the prescribed course of study in any department of the institution, and whose moral character and disciplinary relations to said school shall be satisfactory. And such teachers as shall have completed the prescribed course of study in the normal department, and exhibited satisfactory evidence of ability to instruct and manage a school, shall be entitled to diplomas appropriate to such degrees as the board shall confer upon them, which diplomas shall entitle them to teach in any of the colored common schools of this State.

§ 10. All acts in conflict with the provisions of this act are hereby repealed.

§ 11. By reason of unnecessary expenses attached to the present management of said school, an emergency is hereby declared to exist for the immediate taking effect of this act; it shall, therefore, take effect upon its approval by the Governor.

Approved May 22, 1893.

VI. PUBLIC SCHOOLS IN CITIES OF THE FIRST CLASS.

[The sections are numbered as in the charter of 1893.]

§ 166. At the regular municipal election in 1893 there shall be elected, by the qualified voters in each legislative district of the city, two qualified persons as school trustees, and the persons so elected shall constitute and be styled the———(name of city)———school board, and by said title shall be a corporation. The trustees first elected shall, within three months after the election, cause the trustees from each district to be divided by lot into two classes, and the members of the first class shall vacate their offices at the end of one year from the day of their general election; and annually thereafter there shall be elected by the qualified voters in each district one qualified person as trustee of said schools, who shall hold his office for two years and no longer. The school trustees of cities of the first class are hereby continued corporate under the name and style of the———(name of city)———school board, with power to govern themselves by such rules and regulations for school purposes as they may deem proper, not to conflict with this act nor the Constitution and laws of this State nor the United States; with power to contract and be contracted with, sue and be sued, to defend and be defended in all courts; to acquire property for school purposes by purchase, gift or otherwise; to hold the same and all property and effects now belonging to them, or in the names of others, to the use of the public schools, for the purposes and intent for which the same were granted or dedicated; to use, manage, improve, sell and convey, rent or lease, property, and have like power over property hereafter acquired; to have a common seal, and change it at pleasure, and act with or without a seal. No portion of the property or funds held or raised for

said schools shall ever be applied to the support of any school or schools not entirely under the control and management of the said board. The members of said board shall, before entering upon the duties of their offices, make oath or affirmation, before some judicial officer of this Commonwealth, faithfully to discharge the duties enjoined on them. In conformity to the provisions of section 152 of the Constitution of Kentucky, the said board shall have power to fill all vacancies by death, resignation or other causes, and shall judge of the qualification of its members.

§ 167. Rules and by-laws shall be adopted by the board within thirty days after organization succeeding each election; they shall not be amended, suspended, or repealed, except upon affirmative vote of not less than two-thirds of the members in office upon yea and nay vote of the board, entered upon its records.

§ 168. The board shall meet once a month, and oftener if necessary for the transaction of business. A majority of the board shall be a quorum.

§ 169. No appropriation of money shall be made by the board, except upon the affirmative vote of a majority of the members. The vote shall be entered upon its records.

§ 170. All proceedings of the board shall be entered in a book provided for that purpose. This book shall be a public record, and at all times be open to the inspection of the citizens.

§ 171. It shall be the duty of the board, at the beginning of each fiscal year, to ascertain and estimate, as correctly as may be, the means applicable to educational purposes for the current fiscal year; when such sum is ascertained, the board shall apply the same to the following purposes: Salaries, repairs, rents, building account, general expenses and incidental expenses. The board may, from time to time, thereafter change the amount appropriated for said different purposes, with the consent of not less than two-thirds of the members; but in no event shall the board exceed in the aggregate the estimated amount of his income for the current year; nor shall it incur any liability in one year to be paid out of the revenues of the next year.

§ 172. The fiscal year of the board shall begin on the first day

of January and end on the thirty-first day of December. The scholastic year of the board shall be the same fixed by the statutes of Kentucky.

§ 173. The board shall elect principals and teachers, regulate and fix their salaries and the term of office of all the teachers, officers and employes of the board. The salaries shall not be changed during the year for which they are fixed. The board may dismiss or suspend any principal or teacher or employe for misconduct, inefficiency, neglect of duty or diminished attendance of pupils.

§ 174. The board shall prescribe the branches of education to be taught and the text-books to be used. Text-books once adopted shall not be changed except by unanimous consent of the board until notice of said proposed change shall be given and entered upon the records of the board one full scholastic year, and then only by the affirmative vote of not less than two-thirds of the members.

§ 175. The board shall prescribe the necessary qualifications and mode of examination for applicants for admission to the various schools. For school children whose parents are too poor to purchase books, the board shall provide text-books.

§ 176. No catechism or other formula of religious belief shall be taught or inculcated, nor shall any class-book be used which reflects on any religious denomination.

§ 177. The board shall have power to admit to the schools pupils from beyond the city limits, and shall collect from all persons so admitted tuition fees for the benefit of the school fund of the city, but may make equitable allowance or reduction for taxes paid for schools by such children or their parents on property in the city. Children of persons residing outside of the city limits shall not be admitted as pupils into any of the public schools except upon payment of such tuition as the board may require as aforesaid.

§ 178. The board shall elect for a term of two years a secretary, who shall attend all meetings of the board and keep its records. He shall receive all moneys due the board, and shall deposit the same in some chartered bank to be selected by him and approved by the board, and he shall perform such other duties as may be required by the board. He shall annually give

bond, with surety, to be approved by the board, for the faithful discharge of his duties.

§ 179. The funds of the board deposited in bank shall be withdrawn only on the order of the board, evidenced by the check of its secretary, countersigned by the chairman of the committee on finance, or in his absence or disability, by the next member of the committee in order.

§ 180. No fees or perquisites shall be received by said secretary. Interest paid on deposits must be credited to the board.

§ 181. The board shall elect for a term of two years a superintendent, who shall perform such duties as may be prescribed by the board.

§ 182. In investigation of charges or complaints against any of its members, officers, principals, teachers or other employes, the board, or its committee on grievances, shall have the power to summon witnesses, and by its chairman administer oath. Any willful disregard of said summons or process may be punished by any judge of the circuit court on complaint of the board as contempt of such court is punished.

§ 183. The board may punish its members for misconduct by reprimand or expulsion from office, and punish its officers, principals, teachers and employes by reprimand, suspension, forfeiture of pay or dismissal, as it may judge appropriate for the offense committed. Any officer or member of said board who shall receive any money or other thing of value, directly or indirectly, for his vote or influence in favor of any measure upon which he shall act officially, shall be deemed guilty of felony, and, upon conviction thereof, be confined in the penitentiary not less than two nor more than ten years.

§ 184. To raise money for the maintenance of the schools the general council shall, in the year 1893, and annually thereafter, cause to be levied and collected a tax of not less than thirty-three cents on each one hundred dollars' worth of property assessed for taxation for city purposes. Upon the completion of the assessment of property for taxation the amount levied as above shall annually be passed to the credit of the school fund upon the books of the city, and the said amount, as collected, shall be paid over to the board by the treasurer in regular weekly installments, the first payment to be made within one

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week after the collection of said amount shall have been commenced, and the other payment to be made weekly thereafter in current money by the said treasurer as collected.

§ 185. For the maintenance of the schools there shall be appropriated the sum or sums which may have been received from year to year as the city's portion of the school fund of this Commonwealth.

§ 186. So much real, personal or mixed property in the city which, from alienage, defect of heirs, failure of kindred or other causes, shall escheat to the Commonwealth of Kentucky, shall vest in the board for the use and benefit of the schools. Said board may, in the name of the Commonwealth, for the use and benefit of the public schools of the city, by its president or other officer to be designated by it, enter upon and take possession of said property, or sue for and recover the same by an action at law or in equity, and without office found. The board may sell and convey any of such property by warranty deed or otherwise.

§ 187. The board shall have the power to examine, or cause to be examined, by competent persons, all applicants for the position of principal, teacher or professor in the schools.

§ 188. A certificate granted to any person shall be void, if the holder thereof shall not receive regular employment of the board within five years from its date, but may be renewed by another examination. The board may revoke any certificate issued by it for any cause by it deemed sufficient.

§ 189. When a city of the first class establishes and maintains a system of common schools, to which all applying for instruction are permitted to attend free of charge, the same shall be deemed one school district for taxation purposes, and entitled to its proportion of the school fund. Such city shall, through its proper officers, deputed for that purpose, make its annual report to the Superintendent of Public Instruction at the time and in a similar manner to that required of trustees of other districts. They shall also take the census of the children of school age in the district at least once in five years, and make return thereof to the Superintendent of Public Instruction at the same time other school trustees are required to make their return, and shall, for neglect or violation of their duties

in that respect, be liable to the same penalties. The board shall appoint a suitable person to take the census, who shall take and return the same to it, duly certified as correct. He shall be paid reasonable compensation for his services. For the years in which the census is not required to be taken, the board shall, at the time such returns are required to be made, prepare, mail and cause to be placed in the hands of the Superintendent of Public Instruction a report duly certified of the number of children of school age as shown by the last preceding report or census, with such an increase or addition to that number as is ascertained to be the annual increase of the children in the district, upon averaging the yearly increase during the five years next preceding the filing of the report: *Provided, however,* That the board may cause an actual census to be taken in any of such years, and so report to the Superintendent as heretofore required to be done in every fifth year. The commissioner of the county in which such cities are located shall have no control over the schools in such districts, but the same shall be governed in all respects as herein provided.

§ 190. No person shall be eligible to the office of trustee of the public schools who has not attained the age of thirty years, and who is not a housekeeper, or is not the owner of real estate in said city, or who is not a citizen of the United States, or a *bona fide* resident of the Commonwealth of Kentucky, and of the legislative district of the city for which he is elected, for three years next preceding his election; or who holds or discharges any office, deputyship or agency under the city or any district or county, or under the State of Kentucky or any department thereof, or under the United States or any foreign government, except notaries public and militia officers of Kentucky. No person shall be eligible to this office who, at the time of his election, is directly or indirectly interested in any contract with the board, or who holds any office of trust, agency or salary with any corporation which holds any contract with the board, or who is in any way benefited by the appropriations of the board; or whose father, son, brother, wife, daughter or sister is employed as teacher or as professor, or in any other capacity by said board, or in any of the public schools, or who is, directly or indirectly, interested in the sale to the board of books, stationery or other property.

§ 191. If, after election, any member of the board should become a candidate for nomination or for any office or agency, the holding and discharging of which would have rendered him ineligible before his election, or should he remove out of the district for which he was chosen, or should he do or incur any thing which would have rendered him ineligible for election, or should any of the relatives above specified be employed by the board, his office shall become vacant and be filled as herein directed.

§ 192. Members of the board shall not be elsewhere called in question for language used in debate.

§ 193. No white child shall become a pupil in any school for colored children, and no colored child shall become a pupil in any school for white children; but schools for white and colored children shall be kept and maintained separately.

Act approved July 1, 1893.

VII. PUBLIC SCHOOLS IN CITIES OF THE SECOND CLASS.

(ARTICLE IX OF THE CHARTER.)

§ 1. There shall be maintained a system of public schools, at which all children who are *bona fide* residents of the city between the ages of six and twenty years may be taught at the public expense, and schools may be opened as a part of said system to teach children of the ages of four, five and six years by the kindergarten method. Said schools shall be under the control of a board, to be styled the "Board of Education," consisting of two trustees from each ward in the city, to be elected, however, by the qualified voters at large of the city. Said board of education shall continue, and they are hereby declared, a body-politic and corporate, under the name and style of "Board of Education," with perpetual succession; and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to alter or renew at pleasure; may purchase, receive, hold, lease and dispose of real and personal estate for public school purposes. The control and management of the public schools of the city, and the property and funds thereunto belonging, shall be, and is hereby,

vested in said board, subject to the provisions of this act. They shall have power to make by-laws and rules, not in conflict herewith, necessary for the discharge of their duties and the government of their proceedings. They shall meet once in each month, or oftener if necessary, but it shall require a majority of the members-elect of said board to constitute a quorum for the transaction of business, and for the appropriation of money or the execution of a contract. The concurrence of a majority of the members-elect of said board shall be indispensable, and upon a call for the yeas and nays, to be entered of record. The meetings of said board shall be held in some public place, and a correct record of their proceedings shall be kept in a book provided for that purpose, which shall be a public record, and open to inspection by any officer or citizen of the city.

§ 2. Said board of education shall determine for itself the qualification and election of its members. They shall have the power to fill, until the next general election, all vacancies in said board occasioned by death, removal, or otherwise, and all returns of election shall be made to the clerk of said board, who, by direction of the board, shall issue certificates of election.

§ 3. All the property now used for public school purposes in the city, or which may, at any time, be owned by the board of education, and all the funds or means that may, at any time, come under the control of same, are hereby forever dedicated to the purpose of public schools of the city, and the title to all property, real and personal, and the property itself, in the city, known and used as public school property, are hereby vested in said corporation, and the same shall forever remain free from any debt or liability of the city, and free from any city or State taxation.

§ 4. Said board shall have power to elect and appoint such superintendent, principals and teachers as they may deem necessary for the public school, regulate and fix their salaries, and may, at any time, suspend or remove them, or any of them, by a vote of two-thirds of the members-elect of the board. Said board may purchase, build or rent any ground, building or buildings necessary or convenient for public school purposes, and may make contracts to that end; and any property so leased, purchased, or otherwise occupied, may be reserved by terms, deed

or lease to the public schools of the city ; and, if so reserved, shall not be liable for any debt or debts of the city not incurred for public school purposes. Said board may also receive and hold to public school purposes any gift or devise.

§ 5. Said board shall prescribe the branches of education to be taught, the necessary qualifications, and mode of examination, and the number of teachers to be annually admitted to each school. They shall fix the boundaries of the districts within which children shall be admitted to each school ; but the majority of said board may permit children residing in one district to attend school in another. They may establish high schools and fix a grade of public schools, and prescribe the rules by which pupils may pass from one grade to another, and from the graded to the high school.

§ 6. All children entitled shall have equal rights of admission to, and benefits of, said school, wherein no catechism or other form of religious belief shall be taught or inculcated ; nor shall any class book be used therein which reflects upon any religious denomination or sect ; neither shall any of said schools be so conducted as to interfere with the religious faith or creed of either parents or pupils.

§ 7. Said board shall, at the end of each scholastic year, prepare and cause to be published, a printed statement showing the number of admissions in, expulsions from, and present number of pupils in each school, with the general condition, and the educational progress made therein ; the amount, character and condition of all funds and other property belonging to said schools, together with such other information as may be proper and necessary for the benefit of said schools and the general public.

§ 8. Said board shall annually, in the month of January, approximately ascertain the amount of money necessary to be used, and defray the expenses of maintaining the schools, improving or constructing of buildings, etc., thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the amount to be received from the common school fund of the State of Kentucky (which amount the board shall ascertain by taking the census required by law) of the Auditor, and thereupon, the general council

shall, at the request of said board, levy and collect such taxes as may be requested, and the money arising from said levy shall, under the direction and control of said board, be used for the benefit of the common schools, and for the purpose of paying off the indebtedness of said board: *Provided*, That said levy shall not in any one year exceed thirty-five cents on each one hundred dollars valuation, as returned by the Board of Equalization on all taxable property in the city: *And provided further*, That this act shall not be so construed as to prevent said board from receiving and expending any sum or sums that may come to them by gift, devise or any law of the State. The tax-bills for all taxes levied by the general council for the public schools shall be made out by the city clerk and included in the tax bills containing the ordinary levy, and shall be collected with the same, by the same officers, and in the same manner that the ordinary levies are collected by the collecting officers, and the powers and duties conferred and required of officers in collecting the ordinary city taxes, are hereby conferred and required of them in collecting the taxes levied for said public schools, and such collecting officer and his sureties shall be liable under his official bond for any failure to perform his duties, upon which bond suit may be brought for the use of said board, and recovery had for such amount as shall be found due thereon. All such sums of money, when collected and paid into the city treasury, shall be set apart to and passed over to the common school fund, subject to and drawn out only by the order of said board, as provided by law and ordinances of the said board then existing.

§ 9. Said board shall have power to admit to said schools pupils from beyond the limits of the city, and may collect therefrom tuition fees for the benefit of the school fund of the city, and no children of persons residing beyond said limits shall be admitted as pupils in any of said schools except on payment of such tuition fees as said board may require. Said board may elect or appoint such employes as they deem necessary, and shall prescribe and fix the compensation of each, and may dismiss the same at pleasure.

§ 10. Said board may appoint a board of examiners, to consist of not less than two nor more than five competent persons,

whose duty it shall be, together with the superintendent, to examine, under such rules and regulations as may be prescribed by the board, into the qualifications of all applicants for a position as superintendent, principal or teacher of said schools: *Provided*, That no person, other than the superintendent, shall be a member of said board of examiners, who shall be employed in or connected with the public schools of the city. Said board of examiners shall receive such compensation, and perform such duties as may be prescribed by said board.

§ 11. The said board of education shall provide, maintain and support separate schools wherein all colored children, who are *bona fide* residents of said city, between the ages of six and twenty years, may be taught in like manner as herein provided for white children. Said colored schools shall be entitled to the same benefits, be governed by the same rules and regulations, and be subject to the same restrictions as the schools herein provided for the white children.

§ 12. No member of the board of education, or officer, or teacher, or employe thereunder, shall be, directly or indirectly, interested in any contract, with work done for or by, or furnishing of supplies, or sale of property to or for, the said board, be in arrears to it for money collected or held, without a quietus therefor; have been convicted of malfeasance in office, bribery or other corrupt practice or crime, or hold any office or employment in any company or corporation which has been, or is an applicant for any contract with said board (stockholders in such companies or corporations are not, however, herein included); but they shall not vote on, or interfere, directly or indirectly, with any matter or question affecting such company or corporation, in any manner whatever, other than common with the general public, nor use his official position to secure the patronage of the teachers or employes of said board. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall forfeit his office or position, and be ineligible to be a member of, or hold any office or employment under, said board.

§ 13. The board shall have power to establish and maintain a normal school or normal training class for the purpose of training the graduates of the high school and others to be teachers

in the schools of the city, and to this end it may prescribe such rules and regulations for the government of the said normal school or normal training class, and employ a principal and other teachers, as may be necessary for the maintenance of the said normal school or normal training class.

§ 14. The treasurer of the city shall be treasurer of said board of education, and as such shall keep separate and distinct from all other funds all moneys, bonds and securities belonging to, or which may hereafter be dedicated or set apart for, public schools, and shall only pay out or deliver any of said funds, bonds or securities upon the warrant of said clerk, and approved by the president of the board of education, and shall perform such other duties as may be prescribed by said board.

§ 15. Said board shall have power to appoint a clerk, and prescribe his duties and term of office, fix his compensation, and pay the same out of the school fund, and shall require of him bond and security if they deem the same necessary. The proceedings of the board of education, and copies therefrom, certified by its clerk, shall be taken in the same manner and have the same force and effect in courts and elsewhere as are now given to the proceedings of the general council.

§ 16. Said board of education shall have exclusive control of all school funds of the city, from whatever source the same may be derived, including the *pro rata* of the city from the common school fund from the State of Kentucky. They shall have the right to receive all fines, forfeitures and taxes that may inure to the benefit of the public schools of the city. They shall have power to expend all moneys in the interest of the public schools in the city, and the warrant of the city clerk, and approved by the president of the board, shall be honored by the treasurer to the amount of the school fund in the treasury.

§ 17. All indebtedness, bonded or otherwise, and all liabilities and contracts of the school board existing at the time this takes effect, and all taxes, funds, sinking funds or other resources that have been pledged or set apart for the payment of the principal of the interest thereof, shall continue unimpaired, and remain of the same force and effect as though the same had been authorized and contracted by the express provision of this law, and said board may refund any debt by the issuance of bonds.

§ 18. No money shall be drawn from the fund unless the same has been appropriated by order of the board of education, and no appropriation of money shall be made to be paid out of said school fund, unless the money shall actually be in the treasury to meet the draft; and if any appropriation shall be made, and there shall be no money in the treasury at the time of the making of said appropriation with which to pay the same, the members of the board of education voting therefor shall be individually liable to any party injured for the amount of damages sustained in consequence thereof.

§ 19. At the first general election under this act there shall be elected, as members of said board of education, two persons, to be elected from each ward of the city, but elected by the qualified voters at large of the city, subject to modifications as to the qualifications of voters herein prescribed. The one person from each ward receiving the highest number of votes for two years, and the one from each ward receiving the next highest number of votes for one year, and in case two receive the same number of votes, the time shall be decided by lot. And on the same day of each year thereafter there shall, in like manner, be elected one person from each ward by the voters at large as a member of said board for two years. All persons elected under this section shall assume the duties of his office on the first Monday in January following said election. Trustees in office, whose time has not expired when this act takes effect, shall remain in office until their successors are elected and qualified.

§ 20. Said board of education shall elect from their own number a president for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules prescribing the duties of the presiding officer, and the government of themselves.

§ 21. All votes at elections of members of said board shall be by secret ballot, and after such registration, and subject to such rules and regulations as to manner of registration as may be prescribed by law for election of State officers.

§ 22. All persons, possessing the qualifications required by this act to make them eligible to election as members of the board of councilmen, shall be eligible to membership in the

board of education, and all persons possessing qualifications required by this act, or which may be prescribed by ordinance, in order to vote at elections for city officers, are hereby declared qualified to vote at all elections for members of the board of education, and women, who possess such other qualifications required for males, are hereby declared to be eligible as members of said board of education, and qualified to vote at any and all elections for members of said board.

§ 23. The officers required to hold registration for voters in cities shall provide for separate registration of men and women, and cause to be opened separate polls, at which all persons desiring to vote for members of the school board shall be permitted to vote; otherwise, both the registration and election shall be held according to the provisions of the general election law.

§ 24. In any city of the second class, where members of the school board were elected at the general election, 1893, such members so elected shall hold their respective office until the regular election in 1895. In any city, where no such election was held, the mayor thereof shall appoint two members of said board from each ward in the city, subject to the approval of the board of aldermen, and the board so appointed shall hold their office, exercise the powers, and be subject to the regulations of this act, until the regular election in 1895.

Approved March 19, 1894.

VIII. PUBLIC SCHOOLS IN CITIES OF THE THIRD CLASS.

[The sections are numbered as in the charter of 1893. The amendatory act of March 19th, 1894, struck out from each of sections 226 and 227 the words "by and with the concurrence of the common council," and these sections are so printed here.]

§ 223. There shall be maintained a system of public schools, at which all the children residing in the city between the ages of six and twenty years may be taught at the public expense. Said school shall be under the control of a board to be styled "The Board of Education," consisting of two trustees from each ward in the city, to be elected at the general November election in 1893, by the qualified voters of the city at large. The trus-

tees so elected shall hold their offices one-half for two years and one-half for four years, as shall be determined by lot at the first regular meeting after the election. And at the general election, every two years thereafter, there shall be elected by the qualified voters of the city at large one trustee from each ward in the city in which the term of his predecessor in office will then expire. Said trustees shall possess the same qualifications as are required for councilmen. Said board of education shall continue, and it is hereby declared, a body-politic and corporate, under the name and style of board of education, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to renew or alter at pleasure; may purchase, receive, hold, lease, sell and dispose of real and personal estate for public school purposes. The control and management of the public schools of the city, and the property and funds thereunto belonging, shall be, and is hereby, vested in said board, subject to the provisions of this law. It shall have power to make by-laws and rules, not in conflict herewith, necessary for the discharge of its duties and the government of its proceedings. It shall meet once in each month, or oftener if necessary, and a majority elect of said board shall constitute a quorum for the transaction of business and for the appropriation of money or the execution of a contract. The concurrence of two thirds of the members elect of said board shall be indispensable, and the yeas and nays shall be entered of record. The meetings of said board shall be held in some public place, and a correct record of its proceedings shall be kept in a book provided for that purpose, which shall be a public record.

§ 224. Said board of education shall determine the qualification of its members. It shall have the power to fill until the next general election all vacancies in said board occasioned by death, removal or other cause.

§ 225. All property now used for public school purposes in the city, or which may at any time be owned by the board of education, and all the funds or means that are now or may hereafter come under the control of the same, are hereby forever dedicated to the use of public schools of the city, and the title to all property, real and personal, in the city, known and used as public school property, is hereby vested in said corporation.

§ 226. Said board of education shall have power to elect or appoint such officers as may be necessary for its own government, and to require covenant with surety from any or all officers for the faithful discharge of their duties ; to make by-laws not in conflict with this charter, the Constitution or laws of this State, for the carrying out the duties of their office, and for the government of its own officers, schools, teachers, pupils and employes ; to determine its own rules of proceedings, and to appoint superintendents, teachers, and other officers and employes, and regulate and fix their terms, duties and compensation, and suspend or remove them or any of them for cause. Said board may purchase, build, or rent any ground, building or buildings, necessary or convenient for the public school purposes, and may make contract to that end ; and any property so leased, purchased or otherwise occupied, may be reserved by terms, deed or lease to the public schools of the city, and if so reserved, shall not be liable for any debt or debts of the city not incurred for public school purposes. Said board may also receive and hold, for public school purposes, any gift or devise.

§ 227. That said board of education shall have the power, two-thirds of the trustees in office concurring therein, to be evidenced upon the call of the yeas and nays, and recorded upon the journal of its proceedings, to sell and convey such of said school property for the purpose of reinvesting all the net proceeds of the same in the purchase of other lots, and building thereon other school buildings. And said board of education shall have no power to divert or apply said fund, or any part of it, to any other purpose whatsoever than for the purchase of grounds and the building thereon school buildings for public school purposes, and if it do so, the same shall be malfeasance in office.

§ 228. Said board of education shall have the power to select text-books for use in said school, and prescribe the course of study, and it shall also have power to hold examinations, determine the qualifications of its superintendent, principals, teachers, and issue certificates to same. It may establish high schools and fix the grade of public schools, and prescribe the rules by which pupils may pass from one grade to another, and from the graded school to the high school. It may also establish and maintain kindergartens and manual training schools in connection with the public school.

§ 229. Said board shall, at the end of each scholastic year, prepare and cause to be published a printed statement, showing the number of pupils in each school, with the general condition and educational progress made therein, the amount, character and condition of all funds and other property belonging to said schools, together with such information as may be proper or necessary for the benefit of said schools and the general public.

§ 230. Said board shall, within thirty days prior to the time prescribed for the levy to be made in the charter of cities of the third class, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing buildings, etc., thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the estimated amount to be received from the common school fund of the State, interest on bonds, endowments, etc., to the city auditor or clerk, who shall thereupon report the same to the general council, and said general council shall make the necessary levy and collect the tax to provide suitable school buildings, and to defray the general expenses necessary for school purposes: *Provided*, That the levy for any one year shall not exceed fifty cents on each one hundred dollars of value of taxable property in the city as returned by the board of equalization. Said tax shall be paid to the board or authorized agent of same as fast as collected.

§ 231. Said board of education shall provide and maintain, out of the funds levied or otherwise provided for the purpose, suitable buildings, teachers, and other employes, sufficient for the education of all children of the city between six and twenty years of age, and shall provide separate buildings and schools for the education of white and black pupils; and no white child shall be allowed to attend any colored school, nor shall any colored child be allowed to attend any white school.

§ 232. The trustees shall, before entering upon the duties of their office, take the oath, or make affirmation, as prescribed by law.

§ 233. No member of the board of education shall be or become, directly or indirectly, interested in any contract, agreement or trade, touching the building of school-houses, repairing of school property, selection of text-books or other thing, or

use his official position to secure the patronage of the teachers or employes of the schools. No member of the board of education shall receive any salary for his services as such.

§ 234. Said board of education shall elect its own treasurer and fix bond of same, who shall keep a distinct account of all moneys belonging unto, or which may hereafter be dedicated to, or set apart for, public schools, and shall only pay out or deliver any of said funds, upon the warrant of the board of education, countersigned by the secretary, and approved by the president of the board of education, and shall perform such other duties as may be prescribed by said board.

§ 235. Said board of education shall have exclusive control of all school funds of the city, from whatever source the same may be derived, including the pro rata of the city from the common school fund of the State. It shall have the right to receive all fines, forfeitures and taxes that may inure to the benefit of the public schools of the city. It shall have power to expend all moneys in the interest of the public schools of the city, and the warrants of the board of education, countersigned by the secretary and approved by the president of the board, shall be honored by the treasurer to the amount of the school funds in his custody.

§ 236. All indebtedness, bonded or otherwise, and all liabilities and contracts of the school board, existing at the time this law takes effect, and all taxes, funds, sinking funds or other resources that have been pledged or set apart for the payment of the principal and interest thereof, shall continue unimpaired and remain of the same force and effect as though the same had been authorized and contracted by the express provision of this law.

§ 237. No money shall be drawn from the funds, unless the same shall have been appropriated by order of the board of education, and no appropriation of money shall be made to be paid out of said school funds, unless the money shall actually be in the treasury to meet the draft.

§ 238. Said board of education shall elect from its own number a president, for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules, prescribing the duties of the presiding officer and the govern-

ment of itself ; and said board shall also elect a secretary, at a salary not exceeding one hundred dollars per annum, whose duty it shall be to keep a record of the proceedings of all regular and special meetings, countersign all warrants and contracts, and whose term of office shall be two years.

§ 239. Said board of education shall have the power and right to establish and maintain a public school library, out of any funds coming into its hands, except that received by taxation, or from the State funds, and also to purchase text-books for indigent children of the city, and to otherwise expend such moneys in the interest of the public schools. Said board of education shall have the power and right to make rules and regulations governing said school library.

§ 240. Said board shall have power to admit to said school pupils from beyond the limits of the city, and may collect therefrom tuition fees for the benefit of the schools of the city, making deduction of taxes for school purposes on property in said city paid by parents of said children ; and no children of persons residing beyond said limits shall be admitted as pupils in any of said schools except on payment of such tuition fees as said board may require.

§ 241. No section of this chapter shall be so construed as to repeal in anywise any special act or amendment thereto heretofore passed for any city of the third class for the establishment, maintaining and carrying on a high school.

§ 242. For the reason that cities of the third class, in the operation of their government, need at once some of the provisions of this act, and owing to the manner of elections, an emergency is declared to exist, and this act shall take effect from its approval by the Governor.

Act approved June 14, 1893.

IX. PUBLIC SCHOOLS IN CITIES OF THE FOURTH CLASS.

[The sections are numbered as in the charter of 1893. Section 107 is given as amended by the Act of March 18, 1894. This act had an emergency clause.]

§ 89. There may be maintained a system of public schools, at which all the children residing in the city between the ages of

six and twenty years may be taught at the public expense. Said school shall be under the control of a board, to be styled "The Board of Education," consisting of two trustees from each ward in the city, to be elected at the general November election in one thousand eight hundred and ninety-three, by the qualified voters of the city at large. They shall meet and qualify on the first Monday in January after their election. The trustees so elected shall hold their offices one-half for two years and one-half for four years, as shall be determined by lot at the first regular meeting after the election. And at the general election, every two years thereafter, there shall be elected by the qualified voters of the city at large one trustee from each ward in the city in which the term of his predecessor in office will then expire. Said trustees shall possess the same qualifications as are required for a councilman. Said board of education shall continue, and it is hereby declared, a body-politic and corporate, under the name and style of board of education, with perpetual succession, and by that name may contract and be contracted with; sue and be sued; have and use a corporate seal, the same to renew or alter at pleasure; may purchase, receive, hold, lease, sell and dispose of real and personal estate for public school purposes. The control and management of the public schools of the city, and the property and funds hereunto belonging, shall be, and is hereby, vested in said board, subject to the provisions of this law. It shall have power to make by-laws and rules not in conflict herewith, necessary for the discharge of its duties and the government of its proceedings. It shall meet once in each month, or oftener if necessary, and a majority-elect of said board shall constitute a quorum for the transaction of business and for the appropriation of money or the execution of a contract; the concurrence of two-thirds of the members-elect of said board shall be indispensable, and the yeas and nays shall be entered of record. The meetings of said board shall be held in some public place, and a correct record of its proceedings shall be kept in a book provided for that purpose, which shall be a public record.

§ 90. Said board of education shall determine the qualification of its members. It shall have the power to fill, until the next general election, all vacancies in said board occasioned by death, removal or other cause.

§ 91. All property now used for public school purposes in the city, or which may at any time be owned by the board of education, and all the funds or means that are now or may hereafter come under the control of the same, are hereby forever dedicated to the use of public schools of the city, and the title to all property, real and personal, in the city, known and used as public school property, is hereby vested in said corporation.

§ 92. Said board of education shall have power to elect or appoint such officers as may be necessary for its own government, and to require covenant with surety from any or all officers for the faithful discharge of their duties; to make by-laws not in conflict with this charter, the Constitution or laws of this State, for the carrying out the duties of their office, and for the government of its own officers, schools, teachers, pupils and employes; to determine its own rules of proceedings, and to appoint superintendents, teachers and other officers and employes, and regulate and fix their terms, duties and compensation, and suspend or remove them, or any of them, for cause. Said board, by and with the concurrence of the city council, may purchase, build or rent any ground, building or buildings, necessary or convenient for the public school purposes, and may make contract to that end; and any property so leased, purchased or otherwise occupied, may be reserved by terms, deed or lease to the public schools of the city, and if so reserved shall not be liable for any debt or debts of the city not incurred for public school purposes. Said board may also receive and hold, for public school purposes, any gift or devise.

§ 93. That said board of education shall have the power, two-thirds of the trustees in office concurring therein, to be evidenced upon the call of the yeas and nays, and recorded upon the journal of its proceedings, by and with the concurrence of the city council, to sell and convey such of said school property for the purpose of reinvesting all the net proceeds of the same in the purchase of other lots and building thereon other school buildings. And said board of education shall have no power to divert or apply said fund or any part of it to any other purpose whatsoever than for the purchase of grounds and the building thereon school buildings for public school purposes, and if it do so the same shall be malfeasance in office.

§ 94. Said board of education shall have the power to select text-books for use in said schools, and prescribe the course of study, and it shall also have power to hold examinations, determine the qualifications of its superintendent, principals, teachers, and issue certificate of same. It may establish high schools and fix the grade of public schools, and prescribe the rules by which pupils may pass from one grade to another, and from the graded school to the high school. It may also establish and maintain kindergartens and manual training schools in connection with the public school.

§ 95. Said board shall, at the end of each scholastic year, prepare, and cause to be published, a printed statement, showing the number of pupils in each school, with the general and educational progress made therein, the amount, character and condition of all funds and other property belonging to said schools, together with such information as may be proper or necessary for the benefit of said schools and the general public.

§ 96. Said board shall, within thirty days prior to the time prescribed for the levy to be made in the charter of cities of the fourth class, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing buildings, et cetera, thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the estimated amount to be received from the common school fund of the State, interest on bonds, endowments, et cetera, to the city auditor or clerk, who shall thereupon report the same to the city council, and the said city council shall make the necessary levy, and collect the tax to provide suitable school buildings, and to defray the general expenses necessary for school purposes: *Provided*, That the levy for any one year shall not exceed fifty cents on each one hundred dollars of value of taxable property in the city as returned by the board of equalization. Said tax shall be paid to the board or authorized agent of same as fast as collected.

§ 97. Said board of education shall provide and maintain out of the funds levied or otherwise provided for the purpose, suitable buildings, teachers, and other employes, sufficient for the education of all children of the city between six and twenty

years of age, and shall provide separate buildings and schools for the education of white and black pupils ; and no white child shall be allowed to attend any colored school, nor shall any colored child be allowed to attend any white school.

§ 98. The trustees shall, before entering upon the duties of their office, take oath, or make affirmation, as prescribed by law.

§ 99. No member of the board of education shall be or become, directly or indirectly, interested in any contract, agreement or trade, touching the building of school-houses, repairing of school property, or use his official position to secure the patronage of the teachers or employes of the schools. No member of the board of education shall receive any salary for his services as such.

§ 100. Said board of education shall elect its own treasurer, and fix bond of same, who shall keep a distinct account of all moneys belonging unto, or which may hereafter be dedicated to, or set apart for, public schools, and shall only pay out or deliver any of said funds upon the warrant of the board of education, countersigned by the secretary, and approved by the president of the board of education, and shall perform such other duties as may be prescribed by said board.

§ 101. Said board of education shall have exclusive control of all school funds of the city, from whatever source the same may be derived, including the pro rata of the city from the common school fund of the State. It shall have the right to receive all fines, forfeitures and taxes that may inure to the benefit of the public schools of the city. It shall have power to expend all moneys in the interest of the public schools of the city, and the warrants of the board of education, countersigned by the secretary and approved by the president of the board, shall be honored by the treasurer to the amount of the school funds in his custody.

§ 102. All indebtedness, bonded or otherwise, and all liabilities and contracts of the school board, existing at the time this law takes effect, and all taxes, funds, sinking funds or other resources that have been pledged or set apart for the payment for the principal and interest thereof, shall continue unimpaired, and remain of the same force and effect as though the same had been authorized and contracted by the express provisions of this law.

§ 103. No money shall be drawn from the funds, unless same shall have been appropriated by order of the board of education, and no appropriation of money shall be made to be paid out of said school funds, unless the money shall actually be in the treasury to meet the draft.

§ 104. Said board of education shall elect from its own number a president, for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules, prescribing the duties of the presiding officer and the government of itself; and said board shall also elect a secretary, at a salary not exceeding one hundred dollars per annum, whose duty it shall be to keep a record of the proceedings of all regular and special meetings, countersign all warrants and contracts, and whose term of office shall be two years.

§ 105. Said board of education shall have the power and right to establish and maintain a public school library, out of any funds coming into its hands, except that received by taxation, or from the State funds, and also to purchase text-books for indigent children of the city, and to otherwise expend such moneys in the interest of public schools. Said board of education shall have the power and right to make rules and regulations governing said school library.

§ 106. Said board shall have power to admit to said school pupils from beyond the limits of the city, and may collect therefrom tuition fees for the benefit of the schools of the city, making deduction of taxes for school purposes on property in said city paid by parents of said children; and no children of persons residing beyond said limits shall be admitted as pupils in any of said schools, except on payment of such tuition fees as said board may require.

§ 107. Any city of the fourth class, in which said system of public schools shall be established and maintained, shall constitute one common school district, and the Superintendent of Public Instruction shall pay every year, out of the common school fund of the State to the white board of education, the same amount per capita, for each white child of pupil age in said district, and to the colored board of education the same amount per capita, for each colored child of pupil age in said district, as he shall pay to each child of pupil age in other

school districts in the State. Whenever the board of council of any city of this class shall determine, by ordinance, to establish and maintain a system of public schools therein, under the provisions of the act mentioned in the title of this act, or in case there was a failure at the last election provided for in said act to elect a board of education in any city of the fourth class, the board of council shall have the power and authority to appoint trustees for such school to serve until the election and qualification of trustees as provided in section eighty-nine of said act, as amended herein.

Act Approved June 28, 1893.

[NOTE—Cities of the Fifth and Sixth Classes are provided for in the General School Law. Acts of Assembly, 1893, Chapter 260.]

X. KENTUCKY INSTITUTION FOR THE EDUCATION OF THE BLIND.

[The Superintendent of Public Instruction is required by law to report the three State charitable educational institutions—setting forth objects, methods of admission, etc. For convenience of reference to all, and for the information of those who may be more immediately interested, the laws establishing, maintaining, and regulating these schools are included in this volume.]

AN ACT to reduce into one an act to establish the Kentucky Institution for the Education of the Blind, and amendments thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the school heretofore established and known as the “Kentucky Institution for the Education of Blind,” located within the city of Louisville, shall be and continue as a corporation in that name and style, with power and right as such to sue and be sued, plead and be impleaded, in any and all courts of justice in the United States of America or elsewhere, in all cases in which the rights or interests of said institution are involved; and said institution may receive, take, and hold real and personal estate, by gift, devise, or purchase, and dispose of the same for the use and benefit of said institution; and may have a common seal, or act without corporate seal.

§ 2. That said institution shall be under the control, direction and management of nine citizens of Jefferson county, as visitors, who shall hold their offices for four years, and until their successors are appointed and qualify. The said visitors shall be nominated by the Governor, and approved by the Senate, and any vacancy in the board of visitors by death, resignation, removal from the county of Jefferson, or any other cause, the Governor shall be informed of such vacancy by the president or secretary of the board of visitors, and the Governor shall appoint some competent person of Jefferson county to supply or fill such vacancy for the remainder of the term of the office of the visitor, who may cease to be a member of said board ; and such appointment shall be reported by the Governor to the Senate at the next meeting of the General Assembly after such appointment, for confirmation. Should the Senate reject any nomination made by the Governor under this act, he may make other nominations to the Senate, so that said board of visitors shall be full at all times. The said visitors shall be commissioned by the Governor, and shall take the oath of office required by the Constitution of this State, and to "well and truly discharge the duties of the office of visitor as required by this act." The Governor shall appoint said board of visitors as soon as this act becomes a law.

§ 3. That the board of visitors, or majority, shall appoint from their own body a president at their first meeting, who shall preside at the meeting of said board, and do and perform other duties required of him by the by-laws, rules or regulations or orders of said board ; and said board shall appoint a secretary to keep a regular record of the proceedings of, and to perform any other duties the board may require of him. The said board of visitors may receive, by legacy or otherwise, money, land and other property, and retain, use and apply the same to the use and benefit of said institution. The board of visitors shall have the possession, preservation, repair, and control of the building and ground belonging to this State, dedicated to the education of the blind, in the city of Louisville. And said board of visitors shall have the direction, control, and management of the special and general matters, concerns, and interests of said property and institution ; may employ a superintendent, a physician,

matron, professors, teachers, servants, and all other necessary agents and employes, and fix their pay or compensation for their services; prescribe and direct their duties and conduct; remove at pleasure any superintendent, matron, professor, teacher, servant, agent or employe; and to prescribe the course of education for the pupils in said institution, and rules for their government and discipline, and fix and regulate tuition fees and terms of admission of pupils into said institution from other States; but no charge shall be made for the admission of pupils from this State. The said board of visitors shall have power to pass such by-laws, rules and regulations, resolutions, orders, instructions, as a majority of said board shall consider fit and proper to carry into effect and force the powers herein granted, and may repeal, amend, or annul any such acts or proceedings, and adopt others to effectuate the objects of the said institution. The said board of visitors shall meet at least once in each month of each year, at any place in the city of Louisville, and may meet oftener, if necessary, to transact the business committed to their charge; and the president or any two members of said board may call a meeting of the board. In the absence of the president the board may elect a president *pro tem.*, and may supply the place of the secretary, when he is absent, in the same manner. The said board of visitors shall require from the superintendent annually a full and detailed statement of the condition of said institution, the names of each employe, including matron, professors, teachers, servants, and agents; the pay or salary of each annually or monthly; the number and names of pupils, the residence of each, the number of pay pupils, the amount paid by them, and a full account and statement of the receipts from all sources, and expenditures and outlays of the institution in the preceding year; and may require from the superintendent any other information or fact within the duties prescribed by the board of visitors to him. That said board of visitors shall elect a treasurer for said institution, who shall, before he enter upon the duties of his office, execute bond, with good security, to be renewed biennially, to be approved by the Governor of the State, payable to the Commonwealth of Kentucky, in the penal sum of \$20,000, conditioned well and truly

to discharge the duties of the office of treasurer of the "Kentucky Institution for the Blind," and pay over and account for all money, and to account for and deliver all property or evidence of debt or of value, placed in his hands or possession as treasurer of said institution, on the order of the board of visitors, which bond may be enforced and recovery had on a breach thereof, by motion or action at law, as in case of official bonds of sheriffs within the Commonwealth, and shall be delivered to the Auditor of Public Accounts for safe-keeping.

§ 4. That said institution and its control, direction, management, property, means, and officers and employes shall be, and remain at all times, subject to the control and pleasure of the General Assembly of the Commonwealth, and the Governor shall have a supervisory power and right of visitation over the same.

§ 5. That the treasurer of said institution shall only pay the debts, claims and charges against said institutions on the warrant of the president, after they have been examined, audited and approved by said board of visitors, at a meeting of a majority of the members thereof, which examination and approval shall be certified by the president of said board and countersigned by the secretary, and each claim shall be noted or named on the journal of the proceedings of said board, giving the date, amount and name of the person to whom allowed. The said treasurer shall annually, in the month of November, settle with the Auditor of Public Accounts for the receipts and disbursements during the year preceding, and shall file with the Auditor a statement of said account and the vouchers for the same; and the Auditor shall furnish and deliver to said treasurer a written statement of such settlement, signed by the Auditor, and said treasurer shall furnish to the said board of visitors an annual written statement of his account immediately after settling the same with the Auditor. The statement of the Auditor shall be a sufficient voucher to the treasurer.

§ 6. That the board of visitors shall annually report to the Governor (for the purpose of being laid before the General Assembly) a general statement of the condition of said institution, accompanied with the statements required to be furnished to said board by the superintendent and treasurer, so that the Leg-

islature may be informed of all matters connected with said school, and its wants, prospects and benefits. The treasurer may be removed from office at the pleasure of a majority of the members of the board of visitors, and another elected to supply the vacancy ; and the vacancy in the office of treasurer may be filled by said board at any time.

§ 7. That the board of visitors shall alone have the power to expel a pupil from said institution ; and no officer of said institution, or employe thereof, shall be permitted to inflict corporal punishment upon any of said pupils.

§ 8. That to enable said board of visitors to defray and pay the expenses of said institution, and provide the necessary supplies of food, clothing, and other proper and necessary things, the annual appropriations heretofore made for said institution shall be continued to be drawn as heretofore authorized by law.

§ 9. That all acts or parts of acts coming within the purview of this act are repealed ; and this act shall take effect from its passage.

Approved March 18, 1876.

An act of March 27, 1884, appropriated \$20,000 for the erection of a separate building or buildings "to be used for, and devoted to, the sole and exclusive occupation of the colored blind children of this Commonwealth." The second section of that act is as follows :

The blind children aforesaid, when such buildings shall have been erected, shall be entitled to receive on equal terms due proportion, according to numbers, all rights, benefits, and privileges secured to the white blind children of this Commonwealth by the act establishing the Kentucky Institution for the Education of the Blind and all subsequent enactments in relation thereto : *Provided, however,* That the blind children of both races shall be under the same general management and under one and the same superintendent, who, with all other officers of said institution, shall be elected by, and subject in all respects to, the supervision and control of the board of trustees of said institution, as heretofore provided by law.

XI. THE KENTUCKY INSTITUTE FOR DEAF MUTES.

§ 1. The Asylum at Danville, endowed and established by an act of the General Assembly, approved December 7th, 1822, is continued under the management and control of the board of commissioners and their successors, as provided by an act of the General Assembly, approved January 7th, 1870, and the same is declared to be a body-politic and corporate, by the name and style of "The Asylum for the Tuition of the Deaf and Dumb," and as such shall have perpetual succession, with power to make all contracts necessary and requisite to carry out the object and purposes of its creation, and the efficient management of its business.

§ 2. The board of commissioners, and their successors in office, are hereby authorized and empowered to receive by legacies, conveyances, or otherwise, lands, money, and other property, for the benefit of the Commonwealth, in aid and furtherance of the objects of said institution, and the same to retain, use, and apply to the education of the deaf and dumb of this Commonwealth, to any amount, the interest, profits, and proceeds of which shall not exceed the sum of one hundred thousand dollars per annum.

§ 3. All the funds and effects of said asylum shall be under the management and control of said board of commissioners and their successors in office, as trustees for the Commonwealth, in aid and furtherance of the objects of said institution, subject to the rules and conditions herein specified; and as such, they are hereby authorized and empowered to take and retain possession of all books, papers, bonds, stocks, lands, improvements, and effects belonging to said asylum, wherever they may be found, or in whatever they may consist, and to hold, retain, and so manage, use, and apply the same, as may be best calculated, in their judgment, to build up and sustain said asylum, and secure the objects for which it was established: *Provided, however,* That said board of commissioners, and their successors in office, shall be governed, in every instance, by such restrictions as may accompany any grant of aid by the Legislature: *And provided further,* That whenever said board, or their successors in office, shall receive from private individuals

any donation or contribution, specifying the object for which said donation or contribution is made, the same shall be set apart and applied to the purpose so specified by the donor, and to no other, subject, however, by the control of the Commonwealth over said institution, its officers and affairs.

§ 4. The board of commissioners, and their successors in office, shall keep a true and complete record of all their proceedings and acts as a board, and cause to be kept by their secretary and treasurer a true and complete record of all moneys received and paid out, from whence derived, and for what expended, of bonds receivable and bonds payable, and of all other accounts and proceedings incident to the management of said asylum; all of which shall be open, and at any time subject to the inspection of any committee or commissioner appointed by the Legislature or by the Governor, for the examination of the same; and it shall be the duty of the board of commissioners for the time being to furnish to the Governor annually a statement of the funds, receipts, expenses and condition of the institution, and of the number of persons received and educated therein during the year immediately preceding, and the parts of the State from whence they came, distinguishing between those having been supported gratuitously and others, which shall be by the Governor laid before the General Assembly within the first week of every session held by it.

§ 5. It shall be the duty of the board of commissioners, as soon as the same can be conveniently done, to make out a statement of the property, funds and effects of the institution, of what nature soever the same may be, with an expression of their opinion as to the value of each specific article or item named in the list, as also a statement of the annual profits derived to the asylum therefrom, which shall be furnished to the Governor to be preserved. Any alteration in the character or species of property, and any lessening or increase thereof, shall also, in like manner, be, from time to time, reported to the Governor.

§ 6. The board of commissioners shall have power to appoint a superintendent and teachers for the institution, to regulate the term of service, define the duties, and fix the salaries thereof; to appoint a president, secretary, treasurer, and such other officers as they may deem necessary; to remove any of the afore-

said employes or officers at pleasure, and fill their places with others ; and may make such by-laws as they may deem proper, not in conflict with the Constitution or laws of this Commonwealth. All action of the board of commissioners shall be subject to the control of the General Assembly.

§ 7. Not less than a majority of the board shall constitute a quorum for the transaction of any business ; and if from any cause a vacancy shall occur in the board, the fact shall at once be certified to the Governor, who shall appoint some suitable person to fill the same.

SUPPLEMENTAL ACTS.

1. The annual appropriation for said asylum being inadequate for keeping the premises in good repair, the buildings well insured, and the mechanical department up to a proper and useful standard of efficiency, the further sum of (\$1,000) one thousand dollars per annum is hereby appropriated for these purposes, to be drawn quarterly by warrant of the president and secretary of the board of commissioners of said asylum, as has been provided by law in respect to its other appropriations. All children residing in this State attending said institution shall be received and taught free of tuition, board, and use of books and other instruments and apparatus used in teaching.

Approved March 6, 1882.

2. That an additional appropriation of (\$3,000) three thousand dollars per annum is hereby made for the support of said institution, the same to be drawn quarterly by warrant of the president and secretary of its board of commissioners on the Auditor, to be paid out of the State Treasury.

Approved April 28, 1884.

3. Whereas, it is expedient, as well as just, to make present and adequate provision for the care and education of the colored deaf and dumb children of this Commonwealth ; and whereas, the co-education of the two races is both inexpedient and unadvisable ; and whereas, wise economy and due efficiency requires that the education of both races should be under the same man-

agement; and whereas, a State institution is already located at Danville, Kentucky, for the education of the white mutes; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That an institution for the education of the colored deaf mutes be established at Danville, Kentucky, which shall be under the general control and management of the same board of commissioners as now have charge of the institution for the white deaf mutes. But the two races shall be forever kept entirely separate and distinct from each other.

§ 2. That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enlarge and prepare the buildings now owned by the State at Danville, known as the "Tompkins property," for the purpose aforesaid, separate and apart from the premises and buildings now occupied by the institution of the white deaf mutes.

§ 3. That when the aforesaid buildings shall have been prepared and made ready for the reception of pupils, then the colored deaf and dumb shall be admitted on the same terms as are now applicable to the white deaf and dumb, and shall be entitled to receive the same *per capita* for support as is now provided by law for the white pupils; and the further annual appropriation of twenty-five hundred dollars, or as much thereof as may be necessary for the purpose hereafter named, payable quarterly, is hereby made for the purpose of employing officers and teachers, and defraying the incidental expenses of said colored department: *Provided, however,* That the deaf and dumb children of both races shall be under the same management, and under one and the same superintendent, who, together with all other officers of said institution for colored deaf mutes, shall be elected by and be subject in all respects to the supervision and control of the board of commissioners of the institution for the whites as heretofore provided by law: *Provided,* That the present officers and employes of said asylum shall receive no additional pay for any services rendered in the teaching or care of the colored mutes.

§ 4. This act shall be in force from and after its passage.

Approved May 9, 1884.

AN ACT for the benefit of the Kentucky Institute for Deaf Mutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the sum of nineteen hundred and ninety-six dollars and twenty-five cents be, and the same is hereby, appropriated, out of any money in the State Treasury not otherwise appropriated, for the benefit of the Kentucky Institute for Deaf Mutes, to be expended by the board of commissioners of said institute for the following purposes, viz: *First.* To pay balance due on building recently erected for the mechanical department of said institution, known as the shop building, three hundred dollars and thirty-nine cents (\$300.39.) *Second.* To pay balance due on building recently erected for laundry purposes, and removal of machinery, and so forth, three hundred and twenty-six dollars and ten cents (\$326.10.) *Third.* To pay balance due on corridors connecting the main buildings of said institution, one hundred and thirty dollars and fifty-five cents (\$130.55). *Fourth.* To pay balance expended on general repairs, plumbing, and so forth, in girls' department, three hundred and fifteen dollars and twenty cents (\$315.20). *Fifth.* To pay balance expended on school building, and amount necessary to complete the same, nine hundred and thirty-four dollars and one cent (\$934.01).

§ 2. This act shall take effect from and after its passage.

Approved April 30, 1890.

XII. THE INSTITUTION FOR THE EDUCATION AND TRAINING OF FEEBLE-MINDED CHILDREN.

AN ACT to re-establish the Institution for the Education and Training of Feeble-minded Children.

WHEREAS, An Institution for the Education and Training of Feeble-minded Children was established by an act approved the 11th of February, 1860; and whereas, by an act concerning the various charitable institutions in this Commonwealth, said institution was to be converted into a lunatic asylum, to be known and styled the Third Kentucky Lunatic Asylum, whenever the asylums for lunatics at Lexington and Hopkinsville were filled; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the Institution for the Education and

Training of Feeble-minded Children be, and the same is hereby, re-established under the corporate name and title of "The Commissioners of the Kentucky Institution for the Education and Training of Feeble minded Children."

§ 2. The commissioners of said institution, to be appointed as hereafter directed, shall be, and they are hereby, constituted a body-corporate, with all the usual powers of a corporation necessary to carry out the objects of said institution; with perpetual succession; with authority to purchase and hold, or to rent or hire, or to receive by gift or bequest, property, real or personal, for the objects of said institution; with capacity of contracting and of being contracted with; of suing and being sued; of pleading and being impleaded, and of using a common seal, and altering the same at pleasure.

§ 3. The commissioners of said institution shall be nine in number, to be appointed by the Governor, with and by the advice and consent of the Senate, all of whom to reside in the county in which the institution is located; five of whom shall constitute a quorum. They shall be divided into three classes, in the order of their names as appointed, with three in a class, and one class shall go out of office, according to their number, every two years, but may be reappointed. They shall retain their office, however, until their successors are appointed. In case of death or resignation of a member, the Governor shall have power to supply the vacancy to the end of his time.

§ 4. That all the funds and effects of said institution shall be under the management and control of its board of commissioners, and their successors in office, as trustees for the State, in aid and furtherance of the objects of said institution, and so manage and apply the same as may be best calculated, in their judgment, to build up and sustain the interest of said institution.

§ 5. That said board of commissioners, and their successors in office, shall keep a true and complete record of all their proceedings and acts as a board, and cause to be kept by their secretary and treasurer a true and complete record of all money received and disbursed, from whence derived, and for what expended, all of which shall be open, at any time, subject to the inspection of any committee or commissioner appointed by the

Legislature for the examination of the same ; and it shall be the duty of the board of commissioners for the time being of said institution to present to the Governor annually, and he lay before the General Assembly within the first week of the session, a statement of the funds, receipts and expenditures of said institution, and the number received and cared for during the year immediately preceding, and the counties from which they came.

§ 6. That the board of commissioners, and their successors in office, shall have power to appoint one of their number to act as president of the board, and shall appoint a secretary and treasurer, neither of whom shall be a member of said board, and all other inferior officers or employes, not otherwise provided for in this act, as they may deem necessary for the efficient management of said institution, and may remove any of them at pleasure, and fill their places with others ; and make such by-laws, rules and regulations, as they may deem necessary for the government and interest of said institution, not inconsistent with the provisions of this act, nor in violation of the Constitution and laws of the State : *Provided*, That all such action shall be subject to the control of the General Assembly of this Commonwealth.

§ 7. That it shall be unlawful for the board of commissioners, or their successors in office, to meet and transact business, unless a majority of said board shall be present and concur in their proceedings ; nor shall the proceedings be binding until they shall have been first signed by the president, and countersigned by the secretary.

§ 8. That each commissioner, and every other officer appointed by the Governor under this act, and the secretary and treasurer of the board, shall, before entering upon the duties of his office, take an oath before some notary public, or other officer authorized to administer oaths, that he will faithfully discharge the duties of his trust.

§ 9. That the officers of said institution who shall be appointed by the Governor, by and with the consent and advice of the Senate, shall be as follows, viz : a medical superintendent, one assistant physician, and a steward, all of whom shall live in or near said institution ; and that the superintendent shall receive for his services the sum of fifteen hundred dollars

per annum, the assistant physician the sum of eight hundred dollars per annum, and the steward the sum of seven hundred dollars per annum; said amount to be paid out of the appropriations provided for in this act to meet the annual expenditures of said institution.

§ 10. That the treasurer, before he receives any money or other means belonging to said institution, shall execute a bond to the Commonwealth, in such sum and such sureties as may be required and approved by the board of commissioners, for the safe-keeping and disbursement of all money and other means placed in his hands by said board, its agents or other officers, or by the State. He shall not appropriate any money or other means belonging to said institution in his hands to his own use, or lend the same to any other person for any purpose whatever; or to pay out or disburse any of said funds for any claim, in whole or in part, whatever against said institution, except upon the warrant of the president, countersigned by the secretary; and for any violation of this provision by the treasurer, he and his sureties are made liable on his official bond for the full amount of the sum or sums thus unlawfully used, loaned or disbursed, with ten per cent. damages, recoverable on proper proof shown before any court of competent jurisdiction in this Commonwealth.

§ 11. That the board of commissioners shall meet at least once in each month for the transaction of business, and oftener if the interest of the institution shall require it, and it shall be unlawful for the president to issue his warrant for the payment of the claim against said institution, until the same shall have been submitted to the board of commissioners, and approved by them, and directed to be paid by an order entered upon the books of the secretary, signed by the president and countersigned by the secretary; and whenever the secretary shall issue his warrant on the treasurer for the payment of any claim thus ordered, he shall enter on a book kept for the purpose the number, date, and amount of said warrant, and the name of the person to whom issued.

§ 12. It shall be the duty of the steward to purchase all needed and required supplies of every description; said supplies to be purchased where they can be bought the cheapest, and regard

being had in all cases to the quality as well as the price of articles purchased. Said supplies shall be paid for by the appropriation made by the State to meet the annual expenditures of the institution, and no bill for supplies purchased shall be ordered to be paid by the board unless the seller shall make out a detailed statement of articles purchased by the steward or his order, of the name of each article, date of purchase, and the price paid; and the claim being approved by the steward, it shall be the duty of the steward, whenever the president of the board shall issue his warrant on the treasurer for the payment of any articles purchased by him, to enter in a book kept for the purpose the number, date, and amount of said warrant, and the name of the person to whom the same was issued. He shall give due attention to the cultivation of the farm and garden, and shall be held responsible for the products of the same, and the proper care of the stock belonging to the institution, and shall furnish, from time to time, such products of the farm or garden for the use of the institution as may be required by the superintendent; and he shall keep in a book kept for the purpose an account of all supplies thus furnished. He shall furnish a monthly statement to the board, in writing, of his official acts to date. No sale of any of the stock or products of the farm or garden shall be made by him without the consent of the board; and any funds received by him for any sale thus ordered shall be immediately paid over to the treasurer, taking his receipt for the same, stating amount, when received, and the name of the article sold.

§ 13. The secretary and treasurer shall make a separate quarterly statement to the board of the financial condition of the institution, and furnish the Governor with copies of the same, signed by the president and countersigned by the secretary.

§ 14. The ages of children received into the institution shall not be less than six years nor more than eighteen, and may be removed at any time by order of the board and superintendent whenever the interest of the institution, in their judgment, shall require the same to be done; and whenever such removal shall be ordered by the board of any inmate, said inmate shall be removed by the parent or guardian sending the same to the institution without cost to the State: *Provided*, The parent is

unable to pay the expense incurred to send the inmate home, or the guardian has no means belonging to his ward which he can lawfully use for said purpose, then, in that case, the Auditor of the State, upon the certificate of the superintendent, shall pay the expense of transportation at the rate of six cents per mile, reckoning the distance by the usual route of travel to the home of said inmate; but no traveling expenses shall be paid except on the first reception and final discharge of the child. Should it appear to the board, at any time, that any inmate now in said institution, or that may hereafter be received, is a proper subject, under the law, for a lunatic asylum, they shall, with the advice and consent of the superintendent, and the approval of the Governor, order him or her to be sent to one of the lunatic asylums of the State, and the expense of transportation shall be paid as now provided for by law for transportation of lunatics.

§ 15. There shall be, and is hereby, appropriated for the support, including board, instruction, etc., of each pupil, the sum of one hundred and fifty dollars (\$150) per annum, payable quarterly, and the sum of seven thousand five hundred dollars per annum, payable quarterly in advance, from the time of the passage of this act, for the general support of the institution, payment of salaries, purchase of books, maps, stationery, apparatus, contingent expenses, etc. It shall be the duty of the superintendent to require of each parent or guardian, sending a child to the institution, to pay whatever sum per annum, in his judgment, after an inquiry, he or she may be able to pay towards the support of his or her child or ward in the institution. Bond, with approved security by the president of the board, shall be required in all such cases by the superintendent. From the indigent nothing shall be required; and whenever any child now an inmate of the institution, or that may hereafter be received, shall, in the judgment of the board, be unimprovable, such inmate shall be removed by the parent or guardian, when the board shall order the same to be done, by the advice and consent of the superintendent; and the cost of removal for all indigent children shall be paid as provided in this act for the transportation of indigent children to the institution.

§ 16. The terms of all officers provided for in this act, other than the commissioners, shall be four years.

§ 17. It is distinctly avowed in this act that said institution is not an asylum for the custodial care of unimprovable idiots, but a School for the Education of Feeble-minded Children.

§ 18. That all acts or parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Approved February 23, 1874.

AN ACT to amend an act, entitled "An act to re-establish the Institution for the Education and Training of Feeble-minded Children," approved February 23, 1874.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That an act, entitled "An act to re-establish the Institution for the Education and Training of Feeble-minded Children," approved February 23, 1874, be, and is hereby, so amended that the office of assistant physician is abolished, and hereafter the medical superintendent shall discharge the duties heretofore performed by said assistant physician.

§ 2. That no commissioner or other officer shall sell any thing to the institution, nor make with them any contracts in which he is directly or indirectly interested.

§ 3. That the steward, by direction of the medical superintendent, shall purchase and furnish to the institution all needed supplies of every description, and shall consult him as to the character, quantity, and quality of all such supplies. They shall be bought where they can be bought cheapest, due regard being paid to quality as well as price.

§ 4. This act shall take effect from its passage.

Approved April 29, 1880.

AN ACT to amend an act, entitled "An act to establish the Institution for the Education and Training of Feeble-minded Children," approved February 23, 1874, and the acts amendatory thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That an act, entitled "An act to establish the Institution for the Education and Training of Feeble-minded Children," approved February 23, 1874, and the acts amendatory thereof, be so amended that it shall be the duty of the

medical superintendent of the institution to return to the county judges of the counties from which they were sent, and now confined therein, all pupils whose mental condition is such in the opinion of the superintendent, that further attempts to educate and train them will not prove beneficial to the State. And in this class he shall include all idiots and imbeciles, and all pupils whose progress is unusually slow in learning to read and write, nor shall he hereafter admit such persons into said institution. He shall make report, under oath, to the Auditor of Public Accounts, four times per annum, of all such pupils, if, from any cause, there remain any therein, and the Auditor shall not draw his warrant on the Treasurer for any amount on account of such pupils after the date of such report.

§ 2. The county judges shall restore such persons to the custody of their parents and friends; if none, then such of them as have no estate of their own shall be provided for and supported at the expense of the State, as other pauper idiots, in their respective counties.

§ 3. This act shall take effect from its passage.

Approved May 6, 1880.

AN ACT to provide for completion and furnishing of the Kentucky Institution for the Education and Training of Feeble-minded Children.

WHEREAS, One of the charitable institutions of this State, known as the Kentucky Institution for the Education and Training of Feeble-minded Children, at Frankfort, Kentucky, was unfortunately destroyed by fire on the third day of May, one thousand eight hundred and eighty-nine; and the Commissioners of said institution, under the authority and duty vested in and imposed upon them by law, have caused said building to be reconstructed, and, in so doing, have properly expended the insurance fund collected for the loss by fire (which fund amounted in all to twenty-seven thousand nine hundred and thirty-two dollars and seventeen cents); and whereas, the completion of said building will necessarily require the sum of nine thousand five hundred and fifty-six dollars and forty-seven cents, in addition to said insurance money, and the necessary

furniture, heating apparatus and gas fixtures will require the further sum of ten thousand five hundred dollars ; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky : § 1. That the sum of nine thousand five hundred and fifty-six dollars and forty-seven cents be, and the same is hereby, appropriated for the completion of the building of the Kentucky Institution for the Education and Training of Feeble-minded Children, and the further sum of ten thousand five hundred dollars is hereby appropriated for the necessary furniture, heating apparatus and gas fixtures in said institution ; and the Auditor is hereby authorized and directed to draw his warrant on the Treasurer for the above-named sums, payable to the commissioners of the said institution, from time to time, in such sums as may be required by them : *Provided, however,* That they shall file with the Auditor an itemized statement showing the purpose for which each installment drawn by them is to be applied, together with proper vouchers therefor.

§ 2. This act to take effect and be in force from its passage.

Approved February 21, 1890.

XIII. ASSESSMENT OF AND PAYMENT OF TAXES BY RAILROADS.

[Article IV of the Revenue Law of 1892.]

§ 1. That the president or chief officer of each railroad company, or other corporation owning or operating a railroad lying in whole or in part in this State, shall, on or before the first of September in each year, return to the Auditor of Public Accounts of the State, under oath, the total length of such railroad, including the length thereof beyond the limits of the State, and designating its length within this State, and in each county, city, incorporated town and taxing district therein, together with the average value per mile thereof, and in the respective counties, cities, incorporated towns and taxing districts therein, together with the average value per mile thereof, for the purpose of being operated as a carrier of freight and passengers, including engines and cars, and a list of the depot grounds and improvements, and other real estate of the said company and the value thereof, and the respective counties,

cities, and incorporated towns in which the same are located. That if any of said railroad companies owns or operates a railroad or railroads out of this State, the president or chief officer of such company shall only be required to return such proportion of the entire value of all its rolling stock as the number of miles of its railroad in this State bears to the whole number of miles operated by said company in and out of this State. Said report shall be made as of the first day of July, and a failure to file said report by the first day of September shall subject the president or chief officer residing in this State to a fine of one thousand dollars, and fifty dollars for every day after the first day of September that he fails to file said report, to be recovered as indicated by section nine of this article.

§ 2. Should any railroad, or part of a line of railroad, in this State be in the hands or under the control of a receiver or other person, by order or decree of any court in this or any other State, it shall be the duty of such receiver or other person to make, under his oath, the returns and valuations required by the first section of this article; and should the president or chief officer of any railroad company, or such receiver, fail to make said returns and valuations on or before the first day of September in each year, the said Auditor shall proceed and ascertain the facts and values required by this article to be returned, and in such manner and by such means as he may deem best, and at the cost of the company failing to make the returns and values.

§ 3. The Auditor shall lay before the Railroad Commission, on or before the first day of October, the returns made to him under this act, and any schedules and valuations he may have made under the second section of this article; and should the valuations, or any of them, in the judgment of said board, be either too high or too low, they shall correct and equalize the same by a proper increase or decrease thereof. Said board shall keep a record of their proceedings, to be signed by each member present at any meeting; and the said board is hereby authorized to examine the books and property of any railroad company to ascertain the value of its property, or to have them examined by any suitable disinterested person, to be appointed by them for that purpose.

§ 4. It shall be the duty of the county superintendent of common schools in each county in which a railroad is operated to furnish, on or before the first day of July of each year, to such railroad company or companies, the boundary of each graded or common school district through or into which any part of such railroad or other railroad property is situated; and the county clerk of any county containing any other taxing district through or into which any railroad is located shall make a similar report to such railroad company. Any county superintendent or county clerk failing to make the report as herein required, or shall make a false report, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty nor more than one hundred dollars for each offense.

§ 5. All taxes against any railroad company, which shall be levied in any common school district, shall be paid to the superintendent of common schools of the county for the benefit of the district entitled thereto.

§ 6. The provisions of this law shall not be construed to apply to any colored school district: *Provided*, That the same rate of taxation assessed against the real estate of any railroad company or corporation in any graded common school district or common school district, in any year, shall be assessed against all of the taxable property in such district, and the railroad tax, when collected, shall be paid over to the county superintendent of the county in which the district school-house wherein the tax assessed shall be situated, and shall constitute and be held by the county superintendent as a graded or common district school fund; and the said fund shall be apportioned and distributed by the county superintendent between the white graded common school or white common school district wherein said tax shall be collected, and any colored common school district which shall be located over the same boundary; the distribution shall be in the ratio that the whole number of white children of pupil age and the whole number of colored children of pupil age residing in the district shall bear to the whole number of children, white and colored, residing in the district wherein such tax shall be collected.

§ 7. The same rate of taxation for State purposes which is or may be in any year levied on other real estate shall be, and is

hereby, levied upon the value, so found by said board, of the railroad, rolling stock and real estate of each company; and the same rate of taxation for the purposes of each city, town, county, part of county, or tax district of any kind, in which any portion of any railroad is located, which is, or may be, in any year, levied on other real estate therein, shall be, and is hereby, levied on the value of the real estate of said company therein, and of the number of miles of such road therein, reckoned as of the value of the average of each mile of such railroad, with its rolling stock, as ascertained as aforesaid: *Provided*, That railroad bridges spanning any river, which constitutes the boundary or State line of the Commonwealth, shall be assessed as of the counties in which they are located, and local tax derived therefrom shall be applied to each city, town, county or tax district in which said bridges are or may be located; and immediately after the said board shall have completed its valuations each year, the Auditor of Public Accounts shall notify the clerk of each county court of the amount so assessed for taxation in his county, and each railroad company of the amount of its assessment for taxation for State purposes and for the purposes of such city, town, county, part of county and tax district. And all existing laws in this State authorizing the assessment and taxation of the property of railroad companies by counties, cities or incorporated towns, are hereby repealed, and no county, city or incorporated town in this State shall hereafter assess, levy or collect any taxes on the property of railroad companies in this State except as provided by this article.

§ 8. All taxes assessed against any railroad company shall be due and payable thirty days after notice by mail of the assessment is given by the Auditor, and every such company failing to pay its taxes after receiving such thirty days' notice of the amount of such tax shall be deemed delinquent, and a penalty of ten per cent. on the amount of the tax shall attach, and thereafter such tax shall bear interest at the rate of ten per cent. per annum. Any railroad company failing to pay its taxes, penalty and interest, after becoming delinquents, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined fifty dollars for each day the same remains unpaid, to be

recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

§ 9. Taxes, penalties and interest due the Commonwealth from any railroad company may be recovered by the Auditor of Public Accounts, by action in the name of the Commonwealth, in the Franklin Circuit Court; and those due any county, city, incorporated town or taxing district may be recovered by the officer authorized to receive the same, by action in the name of the Commonwealth in any court of competent jurisdiction.

XIV. DISPOSITION OF THE DIRECT TAX RETURNED TO KENTUCKY IN 1892.

AN ACT to authorize the Commonwealth of Kentucky to borrow and use certain money belonging to, and which is a part of, the school fund, and to execute bond for the same, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: § 1. That the Governor of this Commonwealth is hereby authorized and directed to execute the bond of the Commonwealth of Kentucky to, and in favor of the State Board of Education, for the sum of \$606,641.03, being the amount of Kentucky's share of the "Direct Tax" returned to the State in 1892, pursuant to act of Congress, bearing interest at the rate of six per cent. per annum from date until paid, said interest to be paid semi-annually on the first day of January and July of each year; and said bond shall be attested by the Secretary of State, and then delivered to said Board of Education for the Commonwealth of Kentucky.

§ 2. Upon the execution and delivery of said bond as above directed, the Auditor and Treasurer of the Commonwealth of Kentucky are authorized and directed to transfer the above-named sum of money from the school fund to the general expenditure fund of the Commonwealth of Kentucky.

§ 3. There now being a deficit in the State Treasury, it becomes necessary to increase the rate of taxation in order to meet the current expenditures of the Commonwealth, unless said money is borrowed by the State from the school fund for the use of the

general expenditure fund of this Commonwealth ; and for these reasons an emergency exists and is declared, and this act shall take effect upon its approval by the Governor.

Approved March 12, 1892.

XV. COUNTY SEMINARY PROPE

An act amendatory of section 120 (see page 62).

AN ACT to amend an act, entitled "An act to provide for an efficient system of common schools throughout the State," approved July 6, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky: That section 120, article 10, chapter 260, of the Acts of 1891-'92-'93, page 1413, approved July 6, 1893, entitled "An act to provide for an efficient system of common schools throughout the State," be, and the same is hereby, amended by adding after the word "property," in second line of said section 120, page 1471, of said Acts, these words: "The county court and board of trustees of said seminary consenting," so that said section, when amended, will read as follows: "§ 120. The title to all common school and all county seminary property, the county court and the board of trustees of said seminary consenting, in the limits of any graded common school district organized under the provisions of this law, shall be, and the same is hereby, vested in the board of trustees of said graded common school district, and they are hereby empowered to sell and convey the same, or to use the same for graded common school purposes, as to them shall seem best; but when county seminary property shall be appropriated, all pupils of the county shall be permitted to attend such school at such reduced tuition from what is ordinary as shall be equitable and make good to them their interest in said seminary property. It is further provided, that when any graded school district shall embrace any school property owned or held in trust by trustees, said trustees, by a majority of their board, are hereby authorized and empowered to convey their school property to the trustees of the graded school, at such price and on such conditions as may be agreed upon by the trustees of both parties."

Approved February 24, 1894.

APPENDIX.

Abstracts of Decisions of the Court of Appeals and of the Superior Court Bearing on the Common School Laws ; Also of Attorney-General's Opinions.

1. *Power of State to Establish Common School Systems.*—

The power of the States to establish and maintain systems of common schools, to raise money for that purpose by taxation, and to govern, control and regulate such schools when established, is one of "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States," and consequently it is reserved to the States respectively, or to their people. 1874. *Marshall vs. Donovan, &c.*, 10 Bush, 690.

2. "*What are Common Schools?*"—The school fund can not be applied by the Legislature to any schools except those actually taught by teachers qualified according to law to teach in districts laid out by authority of the school laws, and under the control of trustees elected under those laws, which all white children in the district within a specified age are privileged to attend. 1874. *Collins vs. Henderson, &c.*, 11 Bush, 74.

3. *Common-School System to be General.*—The common school system provided for by the Constitution was intended to be general, governed and aided in all parts of the State in the same way, and to the same extent. 1878. *Auditor vs. Holland, &c.*, 14 Bush, 152.

4. *Constitutional Law—Discrimination Against Negroes—Taxation.*—All legislation which discriminates against any particular race or class of persons is in violation of the Constitution of the United States. Therefore, State taxation for the purposes of education should be provided for by general laws, applicable to all classes and races alike, all the children of the State being entitled to an equal share of the proceeds of the "Common School Fund," and of all State taxation for the purposes of education.

An act, entitled "An act to establish a uniform system of common schools for the colored children of this Commonwealth," approved February 23, 1874, is unconstitutional, because, by implication, it excludes the negro children of the State from any share of the proceeds of the "Common School Fund" set apart by the Constitution, as well as from the annual tax levied on the property of white persons for school purposes. 1884. Dawson vs. Lee, Lee vs. Hill, 83 Kentucky Reports, 49.

5—1. *Particular Appropriation of Common School Fund was "in aid of Common Schools."*—An act of the Legislature converting a common school district into a graded free school district, and providing for the payment of the graded free school of the *pro rata* of the common school fund going to that common school district, is an appropriation of the common school fund "in aid of common schools," and is, therefore, not in violation of that clause of the Constitution which provides that said fund shall not be appropriated for any other purpose.

2. *Submission of Question Whether Graded School Should be Established.*—Under such an act, which provided that the trustees should take the sense of the voters as to whether the proposed school should be established, the submission of the question as to whether a tax should be levied to establish and support a graded school was a substantial compliance with the statute.

3. *Same—Power of Trustees to fix Time of Election.*—The statute fixed a day for submitting the question to the voters, but further provided that the trustees should have power to open a poll, not oftener than once a year, upon the question of establishing the graded school, and for the election of trustees, until the same should be adopted. *Held*—That the trustees had the power to fix the time for holding any election after the first one, provided they did not open a poll oftener than once a year.

4. *Curative Statutes.*—Any mere irregularities in the election under the statute, the Legislature had the power to cure by a subsequent statute ratifying the election and the acts of the Trustees thereunder.

5. *Same.*—A curative statute is valid if it merely dispenses

with that which might have been dispensed with by the Legislature at the outset, or if it treats as immaterial that which the prior law might have treated as immaterial. 1889. *Williamstown Graded Free School District vs. Webb, &c.*, 89 Kentucky Reports, 265.

6. *Normal Schools*.—No appropriation for the support of normal schools can be constitutionally made out of the school fund. 1874. *Collins vs. Henderson, &c.*, 11 Bush, 75.

7. *Appropriation not in aid of Common Schools*.—An act appropriating a part of the school fund for the purchase of *Collins' History of Kentucky*, for school districts, is not in aid of common schools, and, therefore, unconstitutional. *Ib.*

8. *Taxation*.—In general, taxation must be equal and uniform, but where the benefits are special and peculiar, those alone who receive the benefits may be made to pay the tax. 1874. *Marshall vs. Donovan, &c.*, 10 Bush, 691.

9. *Taxation—Irregularity in Election*.—Where a tax in aid of common schools has been imposed pursuant to an election held for that purpose, the burden is on the tax-payer, who resists the collection of the tax, to show that it is void. A mere irregularity in conducting the election will not authorize the chancellor to interpose. 1881. *Trustees, &c., vs. Garvey*, MS. Opinion.

10. *Definiteness*.—A tax of twenty-five cents on the hundred dollars is sufficiently definite. *Ib.*

11. *School Tax—Notice of Vote*.—It is not necessary that a notice of the time and object of a vote upon a school tax should be signed by all the Trustees of the District. A signing by the Chairman of the Board of "Trustees" is a signing by the Trustees within the meaning of the statute. 1886. *Frederick vs. Ragland*, 7 Ky. Law Rep., 743.

12. *Collector of Tax*.—The Sheriff is, under ordinary circumstances, the proper officer to collect a tax voted by a school district. The provision of the statute that the Board of Trustees "may appoint a Collector of Taxes," does not mean that they shall appoint a Collector. *Ib.*

13. *Common Schools—Taxation*.—An act of the Legislature authorizing a particular district to vote a tax in aid of the common school fund, in order that the school may be taught the

entire year, or the higher branches of education brought within reach of all the children, is not in violation of the Constitution, State or Federal. Nor is the teaching of the higher branches of learning in violation of the common school law of the State. 1887. *Newman and Others vs. Thompson*, 9 Ky. Law Rep., 199.

14. *Condemnation of School-house*.—A majority of the qualified voters of a common school district having petitioned the School Commissioner to condemn the school-house of the district as unfit to be occupied for the purpose of a common school, he was authorized by statute to condemn it, and the trustees, upon being notified of the condemnation by the commissioner, were authorized to order the collection of a tax for the erection of a new school-house without submitting the question to the qualified voters of the district. 1885. *Bishop v. Route*, 7 Ky. Law Rep., 962.

15—1. *Selection of site for School-house and Levy of Tax*.—If the site of a school-house is not located by the Trustees of a common school district, as the law directs, a majority of the electors may appeal to the County Superintendent, whose decision is final; and as less than a majority of the electors can not even appeal, it is quite clear that they cannot, on the ground that the site is not where it should be, enjoin a tax levied by the trustees.

2. *Two Trustees are a quorum, and their Act is the Act of the Board*.—Therefore, where three Trustees signed an order of levy, the fact that one of them did so under a mistake of law, does not invalidate the order.

3. *Conditions Precedent to right to order Levy*.—Selection of a site for a school-house and obtaining a title are not conditions precedent to the rights to order a levy. 1889. *Stiles, &c., vs. Beall, &c.*, 11 Ky. Law Rep., 486.

16—1. *Selection of Site for School-house—Powers of County Superintendent*.—The County Superintendent of Schools, in hearing an appeal from the decision of the Trustees of a school district in the selection of a site for a school-house, acts in a judicial capacity, and, like other judicial officers, may reconsider his judgment if it is made manifest to him that it is erroneous, provided it is done within a reasonable time and before rights have been acquired under his previous decision.

2. *Same.*—The decision of the County Superintendent is conclusive, and can not be disturbed by court except upon the ground that he was influenced by improper motives. 1890. *Brinsore v. Cottingham, &c.*, Ky. Law Rep., 720.

17. *Collection of Tax to Build a School-house, etc.*—1. Under the present school law the trustees of a common school district may order the collection of a tax to build or repair a school-house without submitting the question to the voters of the district, but it is a condition precedent of the right to order the tax that is necessary to build a school-house, or that the County Superintendent has condemned the school-house, and that it needs repairing.

2. The Legislature has the constitutional power to authorize the trustees of a school district to order the collection of a tax, not to exceed a certain sum, without submitting the question to a popular vote. While the Legislature must always prescribe the rule under which the taxation is imposed, and can not refer this power to another body, yet having prescribed the rule it need not fix the exact sum to be raised or the particulars of the expenditure. 1889. *Macklin, &c., vs. Trustees Common School District No. 9, of Franklin County*; 88 Ky. Reports, 597.

18. *Towns and Cities—Fines and Forfeitures—Common Schools.*—Under an amendment of January 12, 1860, to the charter of the town of Harrodsburg, providing that the fines and forfeitures recovered in the name of the Commonwealth in the police court of the town should be vested in the board of trustees for the use of the common schools in the town, the town and not the common schools was entitled to all fines or forfeitures arising from a violation of town ordinances, whether imposed in the name of the Commonwealth or in the name of the town. 1887. *Board of Trustees of the town of Harrodsburg vs. Harrodsburg Educational District*, 9 Ky. Law Rep., 605.

19. *School Commissioner.*—*Mandamus* is the proper remedy against the county judge for refusing to permit school commissioner to qualify. 1883. *Greenup County Court, &c., vs. Clifton*, 5 Kentucky Law Rep., 241.

20. *Sureties of Commissioner.*—The sureties of a Commis-

sioner are not responsible for money drawn from the treasury by him unless it is drawn according to law. 1872. Hammond vs. Crawford, &c., 9 Bush, 77.

21. *Trustees—Employment of Teachers.*—School Trustees have the right to act until their successors are chosen and qualified. One of two Trustees elected in room of two whose terms had expired, declined to qualify; the other qualified, but the Commissioner failing to receive the evidence of his qualification, appointed two others in their stead. *Held*, that a teacher employed by two of the former Trustees, and the newly elected Trustee who had been qualified, was entitled to the school money, and not a teacher employed by the Trustees appointed by the Commissioner, and there being an old school-house and a new, it is immaterial that the former taught in the old house and the latter in the new. 1884. Cravens vs. Purns, by &c., 5 Ky. Law Rep., 602.

22. *Suit by Trustees.*—The Trustees of a school district as such, may maintain an action for the recovery of school property, but it is proper that they should give their names. 1884. Lewis vs. Trustees, &c., 5 Ky. Law Rep., 767.

23. *School Property.*—Trustees of a school district can not maintain an action to recover a piece of ground given to build a school-house upon for the benefit of the neighborhood, a building having been erected by the neighbors and used as a school-house. The patrons of the school, or one, for all, must sue. *Ib.*

24. *Payment of Teachers.*—The collection of the amount necessary to be raised in addition to the public funds for the payment of teachers must be provided for by the Trustees by contribution from the patrons or otherwise, and if the Trustees fail to make this provision they are personally liable to the teacher for the amount they had agreed to pay him. The teacher should have nothing to do with raising this fund. 1867. Ferguson vs. True, &c., 3 Bush, 257.

25. *Trustee Compelled to Make Report.*—The teacher of a district school may by *mandamus* compel the Trustee to make to the Commissioner the report necessary to enable the teacher to get his wages from the State. The fact that the Trustee may be indicted for a failure to report, and is liable in damages to any one injured by the failure, does not exclude the remedy by *mandamus*. 1885. Jones, &c., vs. Strange, MS. Opinion.

26. *Evidence of Teacher's Employment.*—When a school has been taught as a free school by a person claiming to have been properly employed, actually attended by nearly all of the children in the district, visited and recognized as the common school by one Trustee without any active opposition from another, the evidence adduced to prove the employment should not be subjected to the most rigid and exhaustive analysis. *Id.*

27. *Attachments of Teacher's Salary.*—Money due a common school teacher can not be attached in hands of Commissioner. 1871. Tracy, &c., vs. Hornbuckle, &c, 8 Bush, 336. 1879. Allen, &c, vs. Russell, &c., 78 Ky., 116.

28. *Suit Against Trustees.*—In a suit by a teacher against Trustees alleging a contract with all, no recovery can be had upon proof of a contract made with part only. 1885. Hounigan, &c., vs. Phillips, 7 Ky. Law Rep., 150.

29. *Power of Legislature over School Fund.*—The General Assembly has no power to devote any portion of the school fund to the payment of teachers not acting under the control or supervision of the officers of the common schools. 1872. Halbert vs. Sparks, 9 Bush, 262.

30. The Legislature can make a school district, and impose a tax for school purposes, without submitting the question to a vote of the people thereof. Fitzpatrick vs. The Board of Trustees of Mt. Sterling Public School District, 87 Ky. Reports, 132.

31. *Graded Schools.*—Under the law, approved May 4, 1888, a majority of white voters in any district must vote for the tax to make it lawful. A majority of those voting is not sufficient. (The law is different since July 6, 1893, and requires only a majority of those voting.) Kate Riggs v. Stephens, Co. Supt.; and Garvey v. Dulaney, Ky. Appellate Court, Dec. 17, 1891.

32. *Taxation.*—Trustees must make a record of all taxes levied when the levy is ordered, and make a record of every step taken. Davidson v. Sterrett, Superior Court, March, 1892.

33. *The Legislature can not Divert State Fund from a Common School.*—A private academy was authorized to admit such pupils from the common school district as would pay tuition, and then collect the pro rata of these pupils from State school fund; and also to exempt such persons as patronized the academy from district taxation. *Held*—That the act was unconsti-

tutional and void. *Underwood vs. Wood, Co. Supt., Ky. Appellate Court, May 5, 1892.*

34. District Taxation.—The trustees of a school district need not see the order of county superintendent in which he condemns the house of their district. It is sufficient that county superintendent notifies them as a condition warranting the levy of a tax to build a suitable house. The order of condemnation need not even be entered on his record before the levy of the tax is made; it is sufficient if done later. The county superintendent is the judge as to the need of a house or furniture, and trustees must act on notice from him. *Trustees of District No. 1, Barren County vs. Jamison, Ky. Appellate Court, January 17, 1891.*

35. District Taxation.—1. No other assessment than that made by the county assessor is needed in order to levy a district tax.

2. The selection of a site for the house, and securing a fee-simple title, are not conditions precedent to the levy of a tax, and house may be built on leased land if Trustees so elect, as for the best interests of the district.

3. The tax not being beyond that authorized by law, the allegation that it would produce \$170, and that only \$80 was needed to make the repairs, is not sufficient to justify the injunction. There being a difference of opinion as to cost of repairs, the opinion of the Trustees must control. *Cromwell vs. Trustees Dist. No. 44, Franklin county, Superior Court, June 8, 1892.*

36. Record Necessary to Determine the District in which a Tax-payer Belongs.—A tax was voted in September, 1882; Mr. Bell had acted as Trustee of the district in 1873; had sent his child to school there as late as 1878; had, before 1873, asked the County Superintendent to transfer him to said district, and he thought he had been so transferred, but the County Superintendent had never entered the change of boundary on his record. When the tax was voted, Bell claimed not to be in the district, and refused to pay the tax. *Held:* That he never was in the district, and should not pay the tax. *Abney vs. Bell, Fleming county, Superior Court, Dec. 16, 1885.*

37. District Taxation—Residence of Minor—Owner of Personal Property Sought to be Taxed.—1. The form of the order

in Trustees' Record and the form of the election notice need not be precisely identical. It is sufficient that they be the same in substance.

2. The statute does not, in a case where an election is held to vote a tax, and same has been voted, require the Trustees thereafter to make and enter in their records a formal order levying the tax voted. It is sufficient that they make an order appointing a collector of the voted tax. The value of the property in the district, as assessed by the County Assessor, is to be used for taxation by the district.

3. Part of the property taxed was a house and lot in Princeton, Ky., and in the district where tax was levied; but the greater part was stocks, bonds and notes belonging to minors and in the hands of a guardian in Louisville, Kentucky. The parents of minors had lived in Princeton, but removed to Texas, and thence to Tennessee, where they died, leaving three children. These children went to Princeton, where their grand-parents lived. One had been sent to school at Staunton, Virginia, and had spent two vacations at Princeton and one in Texas, where she was engaged to be married; the other two had remained at Princeton, and their property had been taxed for State and county purposes in Princeton. *Held*—That all three were citizens of Princeton district, and all their property subject to taxation for school purposes. *Glover's Guardian v. Princeton School District*, Superior Court, September, 1892.

38. *District Taxation to Enlarge School-house*.—When it is ascertained that a school-house is too small to accommodate the children of the district, the County Superintendent can require an addition to be made to it. No specific course is required to be followed by the Superintendent. His having notified the trustees that the house was insufficient to accommodate the children, and that they should make suitable provision for their accommodation, was held to be sufficient. *Ratcliff, &c., vs. Dist. No. 1, Caldwell County*, Superior Court, September, 1892.

39. *District Taxation Under Special Act of Legislature*.—A tax of 75 cents on each \$100 of property value, and \$5 on each poll to erect buildings and maintain a ten months' school in the Robards District having been voted by the whites, and a collector appointed, ten tax-payers proceeded to enjoin the trus-

tees and collector from collecting tax. *Held*: 1. The act does not apply to negroes or their property, but the whites can not complain on this account. 2. The notices having been posted for the time required, and having set out the object of the vote substantially, they were sufficient. 3. Since the statute authorized a tax, not exceeding 75 cents to each \$100, and a poll-tax not exceeding \$5 to each poll; after the tax was voted, there was need of *an order* by the trustees, designating the amount of tax to be collected. They made this, but did not enter it of record, claiming that they complied with this by entering same on the collector's book, or by adopting the entry in the collector's book, and swearing him to collect the tax as entered in that book.

4. The Robards District was made up of Nos. 33 and 34, and on the day of election the County Superintendent of Henderson county carved out of it District No. 75, and no person in this new district voted on the question of taxation. *Held*: That this did not invalidate the election to have the tax in the Robards District, and that, therefore, the tax must be paid. The injunction was dissolved. *Eakin et al.*, tax-payers, vs. *Eakin, Trustee, et al.*, Ky., Appellate Court, October, 1892.

40. *Late Decision on an Old Question*.—1. The county school commissioners having been once paid three dollars for each district visited, will not be allowed to collect three dollars more for each in the census report of his county, made during same year, although the payment for visiting was made under a mistaken view of the meaning of the law. It must be accepted *pro tanto* as payment for reporting the census.

2. The plea of limitation was good on and after September, 1891, for a claim against the State due September, 1884. Superintendent of Public Instruction vs. Bradley, School Commissioner of Scott Co., Superior Court, March, 1893.

41. *District Taxation of Corporations*.—Railroad companies must report to the Auditor, on or before the first day of September, annually, the length of their road in each school district in this State and its average value per mile. Any school district levying a tax in any year may tax all railroads within its boundary, and all taxes are payable on or before the tenth day of October.

The Trustees of District 83, Hardin county, having voted a tax of twenty-five cents on each one hundred dollars of property value and put the tax list in the hands of the Sheriff to collect, they thereby appointed him collector, and he was authorized to collect the tax due by the railroad company on so much of the road as lay in said district. *L. & N. R. R. Co. vs. Trustees of Dist. 83, Hardin Co., Superior Court, March, 1893.*

42. *Kind of Title Trustees Should Have to Land.*—Trustees accepted the donation of land, with reversionary interest in donor, in case the land should ever cease to be used for school purposes; and levied a tax to be used to build a school-house on the land, but exempted the donor of the land from this tax. A taxpayer of the district resisted the payment of his taxes because the trustees had not a fee-simple title, and because they exempted the donor from taxes. *Held*—That neither plea was good, and he must pay his taxes. *John Gess v. Trustees of Dist. 25, Fayette Co., Superior Court, April, 1893.*

43. *Power of County Judge in Condemning Land for School-house.*—The trustees of district 7, Letcher county, selected a site for school-house; the owner would not sell; they applied to county judge for writ to condemn the land for school purposes; the owner answered that the land was not at the center of district, and was set in fruit trees and in use as an orchard; the county judge refused to issue a writ to condemn the land, and the trustees appealed to the circuit court and asked for *mandamus* to compel the county judge to issue the writ. *Held*—That the decision of the County Superintendent as to the site of a school-house, though final as to contention of certain parties in the district, does not affect the rights of the land-owner; that the county judge, acting in a judicial capacity, *had the right to refuse* the writ, and that *mandamus* was not the proper proceeding to set aside his decision. *Wright, Trustee, vs. Baker, Co. Judge, Ky. Appellate Court, May, 1893.*

44. *How to Collect School District Taxes of Corporations.*—The trustees of District No. 7, Laurel county, sought in the circuit court thereof to collect a tax of twenty-five cents on each one hundred dollars of property value in said district of the Louisville and Nashville Railroad Company. *Held*—That they must proceed according to article 3, chapter 92, General Stat-

utes, and amendments thereto, adopted April 2, 1890. These statutes require: (1) That the county superintendent, in his official capacity, shall furnish to the road the boundary of the district in which the track is situated. (2) The railroad company, on or before September 1, in each year, shall report to the Auditor the length of the road in each school district, and the average value of the road per mile. (3) The Railroad Commissioners must equalize this reported value per mile. (4) The Auditor shall then certify to the county clerk of each county court the amount so assessed for taxation in his county for State, county, city and district taxation, and the railroad company of the amount of its assessment; and on this assessment, so certified to the County Clerk, the tax due any district must be estimated.

Any petition to subject the railroad company to taxation must set out that all these steps have been taken, otherwise it is defective. The petition in this case was dismissed because fatally defective. Trustees of District 7, Laurel County, vs. L. & N. R. R. Co., Superior Court, May, 1893.

OPINIONS OF THE ATTORNEY-GENERAL.

I.

1. The right to remove a County Superintendent is made to depend on the existence of a fact. This fact must exist before the right to remove attaches.

2. As to whether this fact exists or not, every officer subject to removal is entitled to be heard before some kind of judicial tribunal.

3. The statute does not give the power to remove at will, but only after a hearing, and the establishing of the fact conditional to removal.

P. W. HARDIN,

JULY, 1886.

Attorney-General.

II.

When the law provides that a trustee holds "until his successor is elected and qualified, or appointed and qualified," there is no vacancy simply by the expiration of his term; and

no vacancy exists, when the term expires, authorizing the county superintendent to make appointment to fill vacancy.

P. W. HARDIN,

OCTOBER, 1887.

Attorney-General.

III.

1. It is not the province of executive or ministerial officers to set aside laws enacted by the Legislature until declared unconstitutional by the courts; whatever their opinions may be.

2. A statute requiring teachers to be re-examined while holding certificates to teach, is not unconstitutional on that account.

3. The Legislature may require greater qualifications, or more evidences of qualifications, from any one proposing to teach in the common schools.

4. Rights acquired by such certificate must be held and accepted as continuing subordinate to the power and duty of the Legislature to act for the public good.

OCTOBER, 1888.

P. W. HARDIN,

Attorney-General.

IV.

1. A tax for white schools in any district is to be levied on the property of whites only, and a tax for colored schools to be levied on the property of colored persons only.

2. It is only when whites are taxed for white schools that corporation property can be taxed; but when such property is taxed, the colored schools of the taxed territory must receive their *pro rata* part as provided in the statute.

AUGUST, 1891.

P. W. HARDIN,

Attorney-General.

V.

1. Trustees levied tax to build school-house, and built one costing four hundred and forty-four (\$444) dollars. The tax for three years failed to pay, and they incurred a debt of two hundred and fifty (\$250) dollars.

2. The trustees were not personally liable for this debt, as it was a debt of the district.

3. The Superintendent of the county is authorized to condemn

the house for the debt incurred to finish the house, and the Trustees can then levy a tax for three years more to meet the deficit.

OCTOBER, 1891.

WM. J. HENDRICK,
Attorney-General.

VI.

1. The Trustees of District 21, Pendleton county, exhausted the three years' tax in building a house, and had a debt of eighty dollars while the house was still without desks.

2. The County Superintendent had the undoubted right to condemn the house for repairs in the way of furniture, and for debt, and the Trustees should thereupon levy tax sufficient to pay debt and pay for furniture.

OCTOBER, 1891.

WM. J. HENDRICK,
Attorney-General.

VII.

1. Trustees of District No. 20, Casey county, levied a tax to buy school furniture, and exhausted the funds collected and were still forty (\$40) dollars in debt for same.

2. The county superintendent should condemn the house for repairs, whereupon the trustees would be authorized to levy a tax to pay the *debt contracted for repairs*.

3. Trustees are not personally liable on such a contract, as it is the debt of the district.

OCTOBER, 1891.

WM. J. HENDRICK.
Attorney-General.

VIII.

1. The Crab Orchard District, organized under Article 3a, School Law, voted a tax of sixty cents to each one hundred dollars of property, and a two-dollar poll-tax to support a school and justify four thousand dollars' worth of bonds for a school-house. Query—Does the district in the matter of schools fall under section 157 of the new Constitution?

2. Section 157 does not stand in the way of the tax, and there is no word or line in the new Constitution which limits in any way the taxation which a school district may vote on itself for

the purpose of maintaining a system of education, such as is contemplated in our common school laws.

WM. J. HENDRICK,
Attorney-General.

NOVEMBER, 1891.

IX.

1. The Adairville school charter makes the Board of Trustees the sole judges of the qualifications of the teachers employed ; yet it seems these qualifications should not be lower than is required in the public schools of the county.

2. The question of taxation for the school need not be submitted to a vote annually.

WM. J. HENDRICK,
Attorney-General.

DECEMBER, 1891.

X.

The County Court of Knox county exempted several persons from paying poll-taxes due the county, and on this fact they claimed exemption from paying poll taxes in a school district.

Held—That the County Court of Claims has no power, authority or jurisdiction to grant exemption to any one, for any tax, poll or ad valorem, under the laws of Kentucky.

WM. J. HENDRICK,
Attorney-General.

DECEMBER, 1891.

XI.

1. Statutes in existence, when the new Constitution became the law of the State, were superseded by it, when there was a conflict.

2. Section 186, of new Constitution, secures the *pro rata* assigned to any district for the year ending June 30, 1892 (the year the new Constitution became a law), when not used that year, to the same district for the year following, ending June 30, 1893, and if not used in either year, it then passes to the General School Fund.

3. Any part of the *pro rata* belonging to any district, when not used at the end of the school-year for which it was designed, must be returned to the State Treasury, and remain there to the credit of the district for next year.

WM. J. HENDRICK,
Attorney-General.

SEPTEMBER, 1892.

XII.

1. The Arlington Graded Free School District, in Carlisle county, organized under section 17, article 3a, of School Law, and offered bonds for sale to provide house, etc. The purchasers raised the question whether section 157 of new Constitution forbade the issue.

2. *Held*—That it was the sense of the Convention which framed the Constitution, after mature deliberation and prolonged discussion, that the limitation on the taxing rate in section 157 should not, and does not, *include taxes for school purposes*. The Convention left the matter to the discretion of the Legislature and the people.

OCTOBER, 1892.

WM. J. HENDRICK,
Attorney-General.

XIII.

J. L. McDowell was elected County Superintendent of Robertson county November 1, 1892, to fill out the term of one elected in 1890. Query—At what time shall he take office—whether January 1, 1893, or as soon as his election has been certified, and he has qualified by giving bond, &c.? *Held*—That having been elected to fill out part of a term, he had a right to the office as soon as he got his certificate of election and executed bond.

DECEMBER, 1892.

WM. J. HENDRICK,
Attorney-General.

XIV.

The trustees of a district in Grant county owned a school-house and lot worth three hundred and fifty dollars. The lot was given to the district about 1867. The donor has been dead twenty years. Trustees have had possession of lot for twenty-five years, but there is no deed or writing of any kind on record to show the nature of the contract. Trustees are compelled to build a larger house to accommodate the children, and put on another site. Question—Do the house and lot revert to the heirs of the donor, or can the trustees sell same for benefit of the district?

Held—That having held possession more than fifteen years, the presumption is that the trustees had a good title at the

beginning and still own the property, and can sell same for benefit of district ; that the heirs have no title to the lot.

DECEMBER, 1892.

WM. J. HENDRICK,

Attorney-General.

XV.

1. In locating a school-house, the Trustees may employ a surveyor, if, in their judgment, it be necessary, and the charges should come out of the fund for purchase of site and for building the house.

2. The Trustees are not required to execute an indemnifying bond to their collector of taxes.

WM. J. HENDRICK,

Attorney-General.

JANUARY, 1893.

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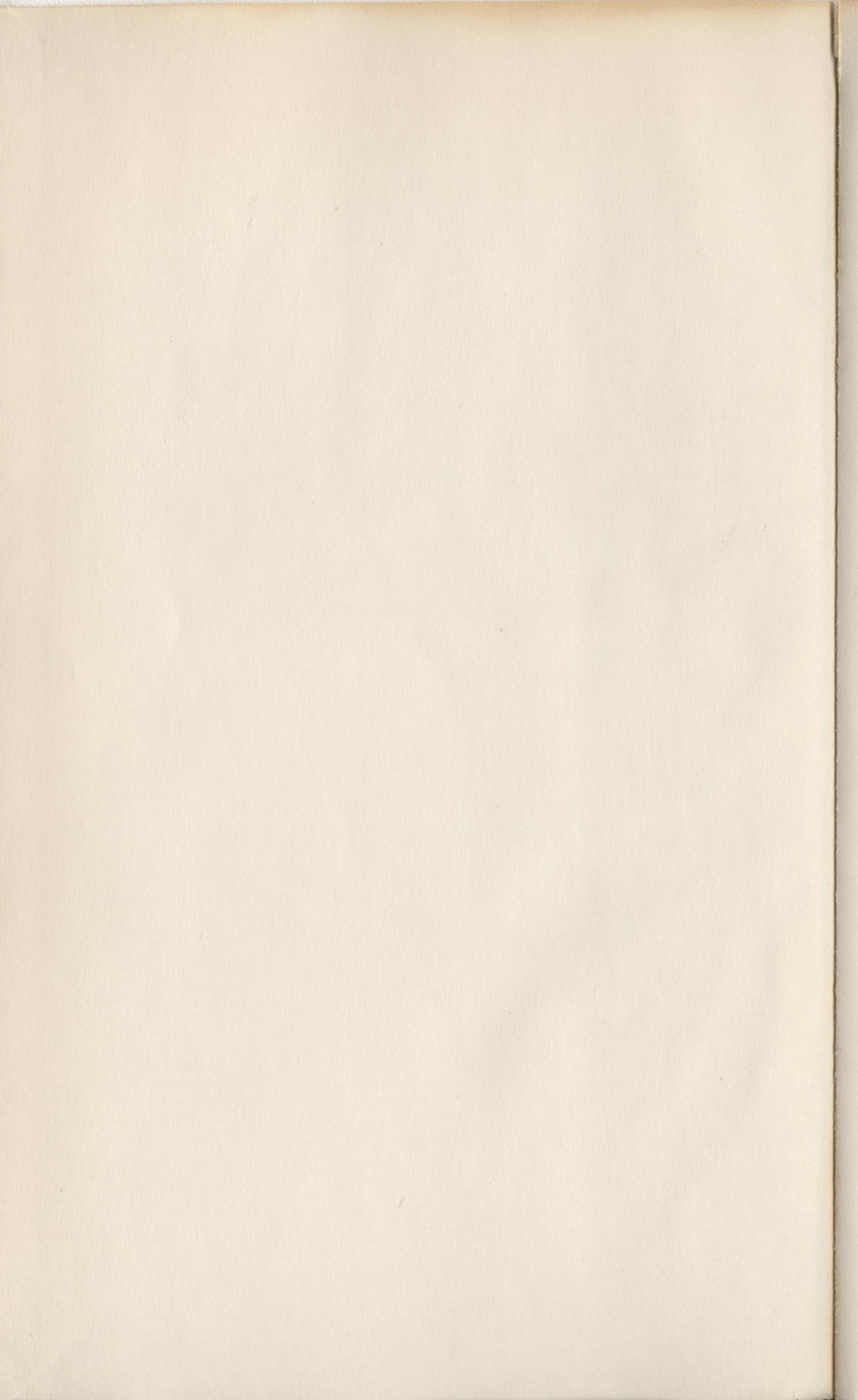
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- I. A Tax to reimburse Trustees.
 - II. Provision for paying old debt of Graded Common School District.—Amended Act.
 - III. Adjunct Schools and Colleges.
 - IV. Agricultural and Mechanical College.
 - V. State Normal School for Colored Persons.
 - VI. Public Schools in Cities of the First Class.
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 - X. Kentucky Institution for the Education of the Blind.
 - XI. The Kentucky Institue for Deaf Mutes.
 - XII. The Institution for the Education and Training of Feeble-minded Children.
 - XIII. Assessment of and payment of railroad taxes.
 - XIV. Disposition of the direct tax returned to Kentucky in 1892.
 - XV. County Seminary property.—Act amendatory of section 120.
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